VAUGHN'S

PRACTICAL REVIEW

FOR LAW STUDENTS.

QUESTIONS & ANSWERS.

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VAUGHN'S
PRACTICAL REVIEW
FOR
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1909

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FOR

LAW STUDENTS

Questions and Answers

COMPILED BY
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ATTORNEYS AT LAW

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PREFACE

The chief design of this book is to furnish a review for Law Students, preparatory to final examination for the bar. The questions and answers contained herein, embrace all subjects, the study of which are required by the Rules of the District Court of Appeal.

The Author wishes here to state that this book is not intended to shorten the work of the student or to act in any way as a substitute for text-books prescribed. But it is a compendium of important questions and answers which have been carefully selected from the Codes and from Standard works of law and equity, to be used as a quizzer after the entire course has been carefully studied.

D. W. F.

Let him remember that every eye is busy in the discovery of his weaknesses, and that every ear is open to the detection of his errors. The utmost tenderness is shown to the embarrassment of inexperience, but ignorance finds no mercy. It is true, it is not hissed off the stage, but it sinks beneath the awful chilling influence of surrounding wisdom. (Raithby).

Vaughn's Questions & Answers

1 Q.—What is law?
A.—Law is rule of action dictated by some superior power and which the inferior is bound to obey.—(Blackstone.)

2 Q.—What is Civil Law?
A.—Civil Law was the system of Jurisprudence held and administered in the Roman Empire, particularly as set forth in the compilation of Justinian and his successors.—(Blackstone.)

3 Q.—What is Common Law?
A.—Common Law in England is the unwritten law founded upon general customs, particular customs and particular laws that were of immememorial usage; whereof judicial decisions were the evidence, and were preserved in the public records.—(Blackstone.

4 Q.—What is Municipal Law?
A.—Municipal Law is a rule of civil conduct prescribed by the supreme power in a State commanding what is right and prohibiting what is wrong.—(Robinson.)

5 Q.—What is Equity?
A.—Equity is the correction of that wherein the law by reason of its universality is deficient.—(Grotius.)

6 Q.—How does Equity differ from Common Law?
A.—In the mode of proof, trial and relief.—(Eaton.)

7 Q.—How many forms of actions are there in this State?
A.—There are two forms, civil and criminal.—(C. C. P. 24.)

8 Q.—What is the meaning of "cause of action"?
A.—A cause of action consists of a right belonging to a plaintiff which has been violated by some wrongful act or omission of the defendant.—(43-8 Atlanta 1041.)

9 Q.—What is a counter-claim?
A.—It is a claim presented by the defendant in opposition to or deduction from the claim of the plaintiff.—(C. C. P. 437.)

10 Q.—What is an answer?
A.—It is any pleading setting up matters of fact by way of defense; a general or specific denial of the material allegations of the complaint controverted by the defendant, or a statement of new matter constituting a defense or counterclaim.—(C. C. P. 437.)

11 Q.—What is a cross-complaint?

A.—It is an affirmative relief sought by the defendant against any party relating to or depending upon the contract or transaction upon which the action is brought.—(C. C. P. 442.)

12 Q.—What are pleadings in this State?

A.—Pleadings are the formal allegations by the parties of their respective claims and defenses for the judgment of the Court.—(C. C. P. 420.)

13 Q.—What are pleadings at common law?

A.—Pleadings are the mutual altercations between the plaintiff and defendant reduced to writing.—(Blackstone.)

14 Q.—What is marriage?

A.—Marriage is a personal relation arising out of a civil contract to which the consent of the parties capable of making that contract is necessary. Consent alone will not constitute marriage; it must be followed by a solemnization authorized by this code.—(C. C. 55.)

15 Q.—What is a will?

A.—A will is an expression in a manner sanctioned by law of that which one may legally require to be done after his death.—(Gardner.)

16 Q.—How may a marriage be dissolved?

A.—By death of one of the parties, or by judgment of a court of competent jurisdiction.—(C. C. 90.)

17 Q.—What are the causes of divorce?

A.—Adultery, extreme cruelty, willful desertion, willful neglect, habitual intemperance and conviction of felony.—(C. C. 92.)

18 Q.—What are the grounds for denying a divorce?

A.—Connivance, collusion, condonation, recrimination or limitation and lapse of time.—(C. C. 111.)

19 Q.—What is a corporation?

A.—A corporation is an artificial being, invisible, intangible and existing only in the contemplation of law.—(Marshall.)

20 Q.—How is a corporation formed in this State?

A.—By the voluntary association of any three or more persons, a majority of whom must be residents of this State, filing Articles of Incorporation, containing name, purpose formed, principal place of business, term of years to exist, not exceeding 50; number of names and addresses of directors or trustees, not less than three, nor more than 50; amount of capital stock, number of shares into which it is divided, and amount actually subscribed, and by whom; said Articles to be filed with the County Clerk in the County where principal place of business is conducted, and a certified copy of same filed with the Secretary of State.—C. C. 290.)

21 Q.—What are some of the powers incident to a corporation?
A.—To maintain perpetual succession, to act in their corporate capacity like an individual, to purchase and hold lands, to have a common seal by which it acts and speaks only, and to make by-laws for its own government and regulation.—(Blackstone.)

22 Q.—How were corporations created at Common Law?
A.—By acts of parliament, by royal charter and by prescription.—(Blackstone.)

23 Q.—What is property?
A.—It is the rightful dominion of man over external objects.—(Robinson.

24 Q.—How are things divided?
A.—Into things real and personal.—(Blackstone.)

25 Q.—What are things real?
A.—They are such as are of a permanent, fixed and immovable nature, and cannot be carried out of their place, as lands and tenements.—(Blackstone.)

26 Q.—What is a contract?
A.—A contract is an agreement, upon a sufficient consideration, to do or not to do a particular thing.—(Blackstone.)

27 Q.—Who may make a contract?
A.—All persons are capable of contracting except minors, persons of unsound mind, and persons deprived of civil rights.—(C. C. 1556.)

28 Q.—What are the essential elements of a contract?
A.—They are (1) parties capable of contracting; (2) their consent; (3) a lawful object; and (4) a sufficient cause and consideration.—(C. C. 1550.)

29 Q.—What is the consideration of a contract?
A.—Any benefit conferred, or agreed to be conferred, upon the promisor, by any other person, to which the promisor is not lawfully entitled, or any prejudice suffered, or agreed to be suffered, by such person other than such as he is at the time of consent lawfully bound to suffer, as an inducement to the promisor, is a good consideration for a promise.—(C. C. 1605.)

30 Q.—How are contracts divided?
A.—Contracts are either express or implied.—(Blackstone.)

31 Q.—What is the difference between an implied and an express contract?
A.—The former is one the existence and terms of which are manifested by conduct; the latter is one the terms of which are stated in words.—(Parsons.)

32 Q.—What is a partnership?
A.—It is the association of two or more persons for the purpose of carrying on business together, dividing its profits between them and sharing the losses.—(C. C. 2395.)

33 Q.—What is a special partnership?

A.—A special partnership is one formed by two or more persons for the transaction of any particular business, except banking or insurance; and consists of one or more persons called general partners, and one or more persons called special partners.—(C. C. 2477-8.)

34 Q.—What is a vendor's lien?

A.—A vendor's lien is a lien the grantor of real property has in the same, independent of possession, for so much of the price as remains unpaid and unsecured otherwise than by the personal obligation of the buyer; or any one who sells personal property has a special lien thereon, dependent on possession, for its price, if it is in his possession when the price becomes payable, and may enforce his lien in like manner as if the property was pledged to him for the price.—(C. C. 3046-49.)

35 Q.—What is a lien on real property?

A.—A lien on real property is a charge imposed upon specific property by which it is made security for the performance of an act.—C. C. 2872.)

36 Q.—How long does a vendor's lien run?

A.—The same as a written instrument—4 years.—(C. C. 3046.)

37 Q.—What is stoppage in transit?

A.—It is the right of a seller or consignor of property, whose claim for its price or proceeds has not been extinguished, has, upon the insolvency of the buyer or consignee becoming known to him after parting with the property, to stop it while on its transit to the buyer or consignee, and resume possession thereof.—(C. C. 3076.)

38 Q.—When and where stopped?

A.—It can be effected only by notice to the carrier or depositary of the property, or by taking actual possession thereof.—C. C. 3079.)

39 Q.—Of what does the civil code treat?

A.—It is divided into four parts: The first part relating to persons; the second to property; the third to obligations; and the fourth, general provisions relating to the three preceding divisions.—C. C. 1.)

40 Q.—What are domestic relations?

A.—Domestic relations are those relations existing between husband and wife, parent and child, guardian and ward, master and servant.—(Long.)

41 Q.—What is a public corporation?

A.—It is one formed or organized for the government of a portion of the State.—C. C. 284.)

42 Q.—What is a corporation sole?

A.—A corporation sole consists of a single person and his successors, who is made a body corporate and politic in order to give him legal capacities and advantages, particularly that of perpetuity, which, in his natural person, he could not have had.—(Blackstone.)

43 Q.—What is the governing body of a corporation?
A.—The directors.—(C. C. 305.)

44 Q.—Who elects the directors?
A.—The stockholders.—(C. C. 307.)

45 Q.—What is a mortgage?
A.—A mortgage is a contract in writing by which specific property is hypothecated for the performance of an act, without the necessity of a change of possession.—(C. C. 2920.)

46 Q.—What is a pledge?
A.—It is the deposit of personal property by way of security for the performance of another act.—(C. C. 2987.)

47 Q.—What is a common carrier?
A.—Every one who offers to the public to carry persons, property, messages, excepting only telegraphic messages, is a common carrier of whatever he thus offers to carry.—(C. C. 2168.)

48 Q.—What are his duties?
A.—A common carrier must, if able to do so, accept and carry whatever is offered to him, at a reasonable time and place, of the kind he undertakes or is accustomed to carry, and he must exercise due care.—(C. C. 2169.)

49 Q.—What is community property?
A.—It is property acquired by husband and wife, or either, during marriage, when not acquired as the separate property of either. —(C. C. 164.)

50 Q.—How is a will executed in this State?
A.—Every will other than a nuncupative or olographic will must be executed and attested as follows: 1st. It must be subscribed at the end thereof by the testator himself, or some person in his presence and by his direction must subscribe his name thereto; 2nd, the subscription must be made in the presence of the attesting witnesses, or be acknowledged by the testator to them to have been made by him or by his authority; 3rd, the testator must, at the time of subscribing or acknowledging the same, declare to the attesting witnesses that the instrument is his last will and testament; and 4th, there must be two attesting witnesses, each of whom must sign the same as a witness, at the end of the will, at the testator's request and in his presence.—(C. C. 1276.)

51 Q.—What is an olographic will?

A.—It is a will that is entirely written, dated and signed by the hand of the testator himself and need not be witnessed.—(C. C. 1277.)

52 Q.—What is evidence?

A.—Judicial evidence is the means, sanctioned by law, of ascertaining in a judicial proceeding, the truth respecting a question of fact. —(C. C. P. 1823.)

53 Q.—How many kinds of evidence are there?

A.—There are four kinds: 1st. The knowledge of the court. 2nd. The testimony of witnesses. 3rd. Writings, and 4th. Other material objects presented to the senses.—(C. C. P. 1827.)

54 Q.—Give degrees of evidence.

A.—Primary, secondary, direct, indirect, prima facie, partial, satisfactory, indispensable and conclusive.—(C. C. P. 1828.)

55 Q.—What is indispensable evidence?

A.—It is evidence that without which a particular fact cannot be proved.—(C. C. P. 1836.)

56 Q.—What is secondary evidence?

A.—It is that which is inferior to primary evidence, as a copy of an instrument; oral evidence of its contents is secondary evidence of the terms of a written instrument.—(C. C. P. 1830.)

57 Q.—What is primary evidence?

A.—Primary evidence is that which, under every possible circumstance, affords the greatest certainty of the fact in question.—(C. C. P. 1829.)

58 Q.—What is the action of claim and delivery?

A.—It is an action for the recovery of personal property which is unlawfully detained, or for the value thereof.—(C. C. P. 509.)

59 Q.—What is a judgment?

A.—A judgment is the final determination of the rights of the parties in an action or proceeding.—(C. C. P. 577.)

60 Q.—What is an execution?

A.—It is a writ issued for the enforcement of a judgment within a prescribed time after the entry thereof.—(Bouvier.)

61 Q.—What is an attachment?

A.—It is a writ directed to the sheriff of any county in which property of a defendant may be, and must require him to attach and safely keep all the property of such defendant within his county, or so much thereof as may be sufficient to satisfy the plaintiff's demand, the amount of which must be stated in conformity with the complaint.—(C. C. P. 540.)

62 Q.—What is a writ?

A.—A writ signifies an order or precept in writing, issued in the name of the people, of a court, or judicial officer.—(C. C. P. 17.)

63 Q.—Name some writs.

A.—Writs of mandamus, certiorari, prohibition, quo warranto, habeas corpus, injunction, attachment, assistance, replevin and possession.

64 Q.—What is a writ of prohibition?

A.—A writ of prohibition arrests the proceedings of any tribunal, corporation, board, or person, whether exercising functions judicial or ministerial, when such proceedings are without or in excess of their respective jurisdiction.—(C. C. P. 1102.)

65 Q.—What is a writ of assistance?

A.—It is a writ commanding the sheriff to eject the defendant from certain lands and put the plaintiff in possession thereof.—(Bouvier.)

66 Q.—What is a writ of possession?

A.—It is a writ of execution employed to enforce a judgment to recover the possession of land.—(C. C. P. 682.)

67 Q.—Who is the defendant?

A.—A defendant is any person against whom an action is brought.

68 Q.—What is a jury?

A.—It is a body of men temporarily selected from the citizens of a particular district and invested with power to present or indict a person for a public offense, or to try a question of fact.—(C. C. P. 190.)

69 Q.—What kind of juries are there?

A.—Juries are of three kinds, viz.: Grand Jury, Trial Jury and Jury of Inquest.—(C. C. P. 191.)

70 Q.—What do you mean by a Grand Jury?

A.—It is a body of men, nineteen in number, returned in pursuance of law from the citizens of a county, or city and county, before a court of competent jurisdiction, and sworn to inquire of public offense committed or triable within the county, or city and county.—(C. C. P. 192.)

71 Q.—What do you mean by a Trial Jury?

A.—It is a body of men returned from the citizens of a particular district before a court or officer of competent jurisdiction, and sworn to try and determine by verdict a question of fact.—C. C. P. 193.)

72 Q.—What is a Jury of Inquest?

A.—It is a body of men summoned from the citizens of a particular district before the sheriff, coroner or other ministerial officer to inquire of particular facts.—(C. C. P. 195.)

73 Q.—How is a jury summoned and selected?

A.—A sufficient number of names of citizens of the county to act as jurymen for the ensuing year are taken from the assessment roll of said county by order of court, and placed in the jury box and

are drawn therefrom, one at a time, until the venire is filled; they are then summoned by the sheriff to attend the court at the opening of the regular session thereof, or at such session as the court may order, by giving a personal notice to each of them or leaving a written notice to that effect at his place of residence with some person of proper age; then he shall return the list to the court, specifying the names of those who were summoned and the manner in which each person was notified.—(C. C. P. 204.)

74 Q.—What are some of the qualifications of jurors?
A.—He must be a citizen of the United States, of the age of twenty-one years, a resident of the State one year and of the County ninety days before being selected and returned, in possession of his natural faculties, of ordinary intelligence, possessed of a sufficient knowledge of the English language, and assessed on the last assessment roll of the county on property belonging to him.—(C. C. P. 198.)

75 Q.—What is a new trial?
A.—A new trial is a re-examination of an issue of fact in the same court after a trial and decision by a jury or court or by a referee.—(C. C. P. 656.)

76 Q.—How are ex-contractu actions divided?
A.—They are divided into actions of assumpsit, debt, covenant and detinue.—(Perry.)

77 Q.—How are ex-delicto actions divided?
A.—They are divided into actions of trover, replevin, trespass, ejectment and trespass on the case.—(Perry.)

78 Q.—What is determined in ejectment?
A.—Right of possession.—(Blackstone.)

79 Q.—At common law, who was plaintiff in an action of ejectment?
A.—The ejected termor.—(Gould.)

80 Q.—How are Blackstone's Commentaries divided?
A.—They are divided into the rights of persons, rights of things, private wrongs, and public wrongs.—(Blackstone.)

81 Q.—What are private wrongs?
A.—Private wrongs are an infringement or privation of the private or civil rights of individuals, and are frequently termed civil injuries.—(Blackstone.)

82 Q.—What are remedies for private wrongs?
A.—By application to courts of justice by a civil action.—(Blackstone.)

83 Q.—What are remedies for public wrongs?
A.—By application of courts of justice by a criminal action.—(Blackstone.)

84 Q.—What is the first paper filed in bringing an action?
A.—The complaint.—(C. C. P. 405.)

85 Q.—What work on evidence have you read?
A.—"Greenleaf on Evidence."

86 Q.—Of what does the Supreme Court of the United States consist?
A.—One Chief Justice and eight Associate Justices.—(U. S. Cons.)

87 Q.—How are they selected?
A.—They are appointed for life (during good behavior) by the President of the United States, and the appointment is confirmed by the United States Senate.—(U. S. Cons.)

88 Q.—Name some of the ex-Supreme Justices?
A.—Morrison R. Waite, Salmon P. Chase, Roger B. Taney, John Marshall, John Jay, Oliver Ellsworth, William Cushing, John Rutledge and John Jay.

89 Q.—Who is the present Chief Justice?
A.—Melville W. Fuller, appointed July 20, 1888.

90 Q.—Who was the first President of the United States?
A.—George Washington—1789-1797.

91 Q.—How many amendments to the constitution of the United States?
A.—Fifteen.—(U. S. Cons.)

92 Q.—What is the subject-matter of the Fifteenth Amendment?
A.—The elective franchise shall not be denied or abridged by the United States, or by any State on account of race, color or previous condition of servitude.—(U. S. Cons.)

93 Q.—What is the subject-matter of the Fourteenth Amendment?
A.—It forbids any State to make laws which will deprive any person of life, liberty, or property, without due process of law; or to deny any person within its jurisdiction the equal protection of the law. (2) Representatives shall be apportioned among the several States according to their respective number, counting the whole number of persons in such state, excluding Indians not taxed and persons convicted of crime. (3) It prohibits any person from becoming a United States Senator, Representative in Congress, Presidential Elector, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress or an officer of the United States, or as a legislative, executive, or judicial officer of any State, to support the Constitution of the United States, and shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemy thereof. (4) It validitates the public debt of the United States as authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, and prohibits the United States or any State to assume or pay any debt or obligation incurred in aid of insurrection or rebellion

against the United States or any claim for the loss or emancipation of any slave.—(U. S. Cons.)

94 Q.—Who was Blackstone.

A.—Sir William Blackstone was born in Cheapside, London, July 10, 1723, and died February 14, 1780. He was the third son of a silk manufacturer; was educated at Oxford; enterd the bar in 1746; was a member of Parliament, a professor at Oxford and a Judge of the Court of Common Pleas. He wrote what is known as "Blackstone's Commentaries."—(Blackstone.)

95 Q.—When was the Constitution of California adopted.

A.—The present constitution was adopted, in convention at Sacramento, March 3, 1879, and ratified by the people May 7, 1879.—Cal. Cons.)

96 Q.—What is a constitution.

A.—It is the organic and fundamental law of the nation or state, which may be written or unwritten, establishing the character and conception of its government.—(Robinson.)

97 Q.—Where do we find the law of California.

A.—It is embodied in the constitution, codes, statutes and the decisions of the Supreme and District Courts of Appeal and Common Law.

98 Q.—What are the four essential parts of law?

A.—(1) Declaratory, (2) Directory, (3) Remedial, and (4) Vindicatory.—(Blackstone.)

99 Q.—Do we have common law in this State.

A.—We do not, except where the codes and statutes are silent in civil law only.—C. C. 5.)

100 Q.—What is murder?

A.—Murder is the unlawful killing of a human being, with malice aforethought.—P. C. 187.)

101 Q.—What is Corpus Delecti?

A.—It is the body of a crime; the substance or foundation of a crime; the substantial fact that a crime has been committed.—(Bouvier.)

102 Q.—Res Gestae?

A.—The things done: The essential circumstances surrounding the subject.—(Bouvier.)

103 Q.—What is a court?

A.—It is the place where justice is judicially administered.—(Black.)

104 Q.—What courts have we in California?

A.—Court of Impeachment, the Supreme Court, the District Court of Appeal, Superior Court, Justice Court, Police Courts and such other inferior courts as the legislature may establish in any incorporated city or town.—(C. C. P. 33.)

105 Q.—What is the jurisdiction of the Court of Impeachment.

A.—It has jurisdiction to try impeachments when presented by the assembly, of any of the State officers, Judges of the Supreme, Appellate and Superior Courts for any misdemeanor in office.—(C. C. P. 37.)

106 Q.—Of what does it consist.

A.—It consists of the members of the Senate.—(C. C. P. 36.)

107 Q.—Who presides over it.

A.—The regular officers of the Senate are the officers of the court.—(C. C. P. 38.)

108 Q.—What is an indictment?

A.—An indictment is an accusation in writing, presented by the Grand Jury to a competent court, charging a person with a public offense.—(P. C. 917.)

109 Q.—What is a non-suit.

A.—The dismissal of an action first by the plaintiff himself, upon payment of costs at any time before trial; second, by either party upon the written consent of the other; third, by the court when the plaintiff fails to appear on the trial and defendant being present asks for dismissal; fourth, by the court when, during the process of trial, the plaintiff abandons it; fifth, by the court upon motion of the defendant when upon trial the plaintiff fails to prove a sufficient case for the jury; sixth, by the court when, after a verdict, the party entitled to judgment neglects to demand and have the same entered for more than six months.—(C. C. P. 581.)

110 Q.—What is a special verdict?

A.—A special verdict is that in which the jury find the facts only, leaving the judgment to the court.—(C. C. P. 624.)

111 Q.—What is a general verdict?

A.—A general verdict is one which a jury pronounces generally upon all or any of the issues, either in favor of the plaintiff or defendant.—(C. C. P. 624.)

112 Q.—Who tries issues of law?

A.—The court.—C. C. P. 591.)

113 Q.—Who tries issues of fact?

A.—The jury, except equity cases and where jury trial is waived; then the court.—(C. C. P. 592.)

114 Q.—How is an issue of fact raised?

A.—By answer.—(C. C. P. 590.)

115 Q.—How is an issue of law raised?

A.—By demurrer.—(C. C. P. 589.)

116 Q.—What is a code?

A.—A code is a collection or compendium of laws scientifically arranged and promulgated by legislative authority.—(Black.)

117 Q.—Who formed the first code?

A.—It was formed by Tribonian, under the direction of Emperor Justinian.—(Blackstone.)

118 Q.—Who was Justinian?

A.—He was a Roman Emperor about A. D. 533.

119 Q.—Have we dower in this State?

A.—We have not.

120 Q.—If you found a juror not qualified what would you do?

A.—Challenge him.

121 Q.—What kind of challenges are there?

A.—Challenge to the array and to the poll. Challenges to the poll are divided into two kinds—peremptory and for cause.—(C. C. P. 601.)

122 Q.—How is the President of the United States elected?

A.—By a majority vote of the Electoral College.—(U. S. Cons.)

123 Q.—How many electors are there?

A.—Each State furnishes to the Electoral College as many Presidential Electors as it has Representatives and Senators in Congress.—(U. S. Cons.)

124 Q.—Of what does Congress consist?

A.—It consists of the House of Representatives and the United States Senate.—(U. S. Cons.)

125 Q.—How are they elected?

A.—United States Senators are elected by the legislatures of the several States which they represent. Representatives are elected by the direct vote of the people.—(U. S. Cons.)

126 Q.—How do laws originate in Congress?

A.—By measures presented in either house by any member thereof, except revenue bills, which must originate in the House of Representatives.—(U. S. Cons.)

127 Q.—What are the different departments of government in this State?

A.—They are the legislative, executive and judicial.—(Cal. Cons.)

128 Q.—What action at common law corresponds to claim and delivery?

A.—An action of replevin.—(C. C. P. 509.)

129 Q.—What is a treaty?

A.—In international law, it is an agreement between two or more nations or independent states and solemnly ratified by the several sovereigns or the supreme power of each State.—(Blackstone.)

130 Q.—When were the codes adopted in California?

A.—They were adopted January 1, 1873, at 12 o'clock noon.—(C. C. 2.)

131 Q.—What system of law had we prior to the code?

A.—Common law and statutes.

132 Q.—What is a deed?

A.—It is an instrument in writing between parties capable of contracting, subscribed, sealed and delivered.—(Blackstone.)

133 Q.—What is a quit-claim deed?

A.—It is a deed of conveyance operating by way of release, not containing any warranty or covenants of title.—(Blackstone.)

134 Q.—What is a grant?

A.—Grant includes all transfers in writing whereby one person conveys property to another.—(C. C. 1053.)

135 Q.—What title does a grant convey?

A.—It conveys all the actual title to the thing which the grantor has unless a different intention is expressed or is necessarily implied. —(C. C. 1083.)

136 Q.—What is a letter of credit?

A.—A letter of credit is a written instrument, addressed by one person to another, requesting the latter to give credit to the person in whose favor it is drawn.—(C. C. 2858.)

137 Q.—What is the difference between a mortgage at common law and in this State?

A.—At common law mortgagee held possession and mortgagor had no equity of redemption after default.—(Dunlap.)

138 Q.—What is the difference between a pledge and a mortgage of personal property?

A.—Pledgee has possession; mortgagee does not.—(Dunlap; C. C. 2988; C. C. 2927.)

139 Q.—What are the pleadings in this State?

A.—By the plaintiff: complaint, demurrer to the answer, demurrer to cross-complaint and answer to cross-complaint. By the defendant: demurrer to complaint, answer, cross-complaint and demurrer to answer to cross-complaint.—(C. C. P. 422.)

140 Q.—What were some of the privileges and disabilities of a corporation at common law?

A.—At common law it cannot maintain or be made defendant in a battery or like personal actions, nor commit crime in its corporate capacity; it cannot be an executor or perform any personal duties; it cannot be seized of lands to the use of another; nor can it be committed to prison, outlawed or excommunicated.

141 Q.—What is cumulative evidence?

A.—It is additional evidence of the same character to the same point. —(C. C. P. 1838.)

142 Q.—What is corroborative evidence?

A.—It is additional evidence of a different character to the same point.—(C. C. P. 1839.)

143 Q.—What is conclusive evidence?

A.—It is evidence that which the law does not permit to be contradicted.—(C. C. P. 1837.)

144 Q.—What is hearsay evidence?

A.—It is that which does not derive its value solely from the credit of the witness, but rests mainly on the veracity and competency of other persons.—(C. C. P. 1845.)

145 Q.—What is circumstantial evidence.

A.—It is evidence directed to the attending circumstances by which the principal fact may be concluded by necessary law of reasoning.—(C. C. P. 1832.)

146 Q.—What is Res Adjudicata?

A.—It is the matter adjudged. A thing judicially acted upon or decided.—(Blackstone.)

147 Q.—What is Stare Decisis?

A.—It is to stand by decided cases; to uphold precedent.—(Black.)

148 Q.—What is an attorney at law?

A.—An officer in a court of Justice, who is employed by a party in a cause to conduct the same for him.—(Parker.)

149 Q.—Do courts have terms in California?

A.—They do not.—(Cord.)

150 Q.—Did they have terms at common law?

A.—They did.—(Cord.)

151 Q.—What is meant by a non-judicial day?

A.—They are the days when no judicial business can be transacted, except, first, to give upon their request, instructions to a jury when deliberating on their verdict; second, to receive a verdict or discharge a jury; third, for the exercise of the powers of a magistrate in a criminal action, or in proceedings of a criminal nature. Provided that the Supreme Court, District Court of Appeal and Superior Courts shall always be open for the transaction of business; and provided further, that injunctions and writs of prohibition may be issued and served on any day.—(C. C. P. 134.)

152 Q.—What are the non-judicial days?

A.—Every Sunday, January 1, February 22, May 30, July 4, September 9, first Monday in September, the day set apart as Thanksgiving, December 25; any day upon which an election is held throughout the State, any day set apart by the Governor of this State, and every Saturday afternoon.—(C. C. P. 10.)

153 Q.—What were the pleadings or orderly parts of a suit at common law?

A.—(1)Declaration. (2) Plea. (3) Replication. (4) Rejoinder. (5) Sur-rejoinder. (6) Rebutter, and (7) Sur-rebutter.—(Gould.)

154 Q.—What was the action of debt?

A.—It was an action in form ex contractu for the recovery of a specific sum of money.—(Blackstone.)

155 Q.—What was the action of covenant?

A.—It was an action for the recovery of damagase for the breach of a covenant, or contract under seal.—(Blackstone.)

156 Q.—What was the action of detinue?
A.—It was an action for the recovery of personal chattels in specie.—(Blackstone.)
157 Q.—What was the action of trover?
A.—An action for damages against a person who refused to deliver goods upon demand to the owner, but converted them to his own use: the gist of the action was the conversion.—(Perry.)
158 Q.—What was the action of replevin?
A.—It was a personal action ex delicto brought to recover possession of goods unlawfully taken.—(Dunlap.)
159 Q.—What was the action of trespass?
A.—It was an action for damages for any unlawful injury done to the plaintiff, in respect either to his person, property or rights, by the immediate force and violence of the defendant.—(Dunlap.)
160 Q.—What is an issue?
A.—It is a fact or conclusion of law maintained by one party, and controverted by the other.—(C. C. P. 588.)
161 Q.—What is meant by joining issue?
A.—It is an affirmation on one side, met by a denial on the other.—(Black.)
162 Q.—What are compurgators?
A.—They are neighbors of a person accused of a crime, or charged as a defendant in a civil action, who appear and swear they believe him on his oath.—(Blackstone.)
163 Q.—What is a trial?
A.—It is the examination of the matter of fact put in issue.—(Bouvier.)
164 Q.—What kind of trials were there at common law?
A.—Trials by record, by inspection or examination, by certificate, by witnesses, by wager of battle, by wager of law and by jury.—(Blackstone.)
165 Q.—Where did trial by jury originate?
A.—It was instituted by Henry II. to do away with the barbarous custom of dueling.—(Blackstone.
166 Q.—What is meant by the execution of a judgment?
A.—It is the putting the sentence of law in force.—(Blackstone.)
167 Q.—How do you compel the attendance of a witness?
A.—By serving him with a subpoena.—(C. C. P. 1985.)
168 Q.—How would you serve a subpoena?
A.—It is served by showing the original and delivering a copy to the witness personally.—(C. C. P. 1987.)
169 Q.—How would you serve a summons?
A.—It is served by the sheriff of the county where the defendant is found or by any other person over 18 years of age not a party

to the action. A copy of the complaint must be served with a copy of the summons. When the summons is served it must be returned to the office of the clerk from which it issued with an affidavit of such person of its service and of the service of a copy of the complaint.—(C. C. P. 410.)

170 Q.—What is an alias summons?

A.—It is a summons in the same form as the original issued by the clerk, upon demand of the plaintiff, when the original has been returned without being served on all the defendants, or has been lost; it must be issued within one year after the filing of the complaint.—(C. C. P. 408.)

171 Q.—How would you serve a corporation?

A.—By serving its President or other head of the corporation, Secretary, Cashier, or managing agent thereof, in the same manner as serving an individual.—(C. C. P. 411.)

172 Q.—How may an attachment issue?

A.—It may issue in an action upon a contract, express or implied, for the direct payment of money, where the contract is not secured by any mortgage or lien upon such property, or in an action against a defendant, not residing in this State, to recover a sum of money, as damages arising from an injury to property in this State, in consequence of negligence, fraud or other wrongful act.—(C. C. P. 527.)

173 Q.—What was the Witena-gemot?

A.—An early Anglo-Saxon court. Term signified a meeting of wise men.—(Black.)

174 Q.—What was the court baron?

A.—It is a court incident to every manor of the Kingdom, to be holden by the steward within the said manor.—(Blackstone.)

175 Q.—What was the jurisdiction of the Court of Common Pleas?

A.—Its jurisdiction was for the trial of all matters of law arising in civil cases, whether real, personal or mixed.—(Blackstone.)

176 Q.—What was the jurisdiction of the Court of Kings Bench?

A.—The court of King's Bench had exclusive jurisdiction in all matters of a criminal nature and was also a court of appeal from the court of common pleas.—(Blackstone.)

177 Q.—What was the jurisdiction of the Court of Chancery?

A.—In matters of civil property, it was the most important of any of the King's superior and original courts of justice. It was the court of equity.—(Blackstone.)

178 Q.—What was the jurisdiction of the Court of Exchequer?

A.—Its duties were to order the revenues, collect the debts and duties of the crown.—(Blackstone.)

179 Q.—How did the Court of Chancery derive its name?

A.—From the Judge or Lord Chancellor who presided over it.—(Blackstone.)

180 Q.—What is meant by Courts of Assize and Nisi Prius?

A.—They were composed of two or more commissioners, who were twice a year sent by the King over the Kingdom to try certain cases by jury.—(Blackstone.)

181 Q.—What is the highest court in England?

A.—The House of Peers.—(Blackstone.)

182 Q.—What is its jurisdiction?

A.—It has no original jurisdiction, but only upon appeals and writs of error.—(Blackstone.)

183 Q.—What is an attorney in fact?

A.—It is a private attorney authorized by another to act in his place and stead, either for some particular purpose or for the transaction of business in general, not of a legal character.—(Black.)

184 Q.—What are the duties of an attorney?

A.—(1) To support the constitution and laws of the United States and of this State. (2) To maintain the respect due to the courts of justice and judicial officers. (3) To counsel or maintain such actions, proceedings and defenses, only as appear to him legal or just; except the defense of a person charged with a public offense. (4) To never seek to mislead the Judge or any judicial officer by an artifice or false statement of fact or law. (5) To abstain from all offensive personality. (6) To maintain inviolate the confidence reposed and preserve the secrets of his client. (7) Not to encourage either by commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest, and (8) Never to reject for any consideration personal to himself the cause of the defenseless or the oppressed. —(C. C. P. 282.)

185 Q.—What is meant by the statute of limitations?

A.—It is the statute prescribing limitations to the action on certain causes of action; that is, an action must be brought within a specified period after the right has accrued.—(Blackstone.)

186 Q.—What are some of its provisions under the code?

A.—FIVE YEARS: Any action upon a judgment or decree of any court in the United States or of any State; or for Mesne profits of real property must be commenced within five years.

FOUR YEARS: An action upon any contract, obligation or liability founded upon an instrument in writing, executed within this State or for open running accounts, must be commenced within four years.

THREE YEARS: Any action upon a liability created by statute other than a penalty or forfeit; for trespass upon real property; or for taking, detaining or injuring any goods or chattels; or for relief on the ground of fraud or mistake, must be commenced within three years.

TWO YEARS: Any action upon a contract, obligation or liability not founded upon an instrument of writing, other than that mentioned in subdivision Two; or an action founded upon an instrument of writing executed out of the State; must be commenced within two years.

ONE YEAR: Any action upon a statute for a penalty or forfeiture, except wherein the statute imposing it prescribes a different limitation, or for libel, slander, assault and battery, false imprisonment, seduction, or for injury to, or for the death of one caused by the wrongful act or neglect of another, or against a municipal corporation for damages or injuries to property caused by a mob or riot, must be commenced within one year.

SIX MONTHS: An action to recover any goods, wares, merchandise, or other property, seized by any officer in his official capacity, or to recover stock sold for a delinquent assessment, must be commenced within six months.—(C. C. P. 336 to 341.)

187 Q.—What are the parties to a suit called?
A.—Plaintiff and defendant.—(C. C. P. 308.)

188 Q.—What is an intervener?
A.—It is any person who voluntarily interposes in an action or other proceeding with the leave of the Court.—(C. C. P. 387.)

189 Q.—When, how, and by whom may intervention be made?
A.—At any time before trial by a third person in interest being permitted to become a party to an action between other persons.—(C. C. P. 387.)

190 Q.—How must an infant or insane person appear in court?
A.—They must appear through their guardian.—(C. C. P. 1722.)

191 Q.—What is meant by the lex loci rei sitae?
A.—It is the law of the place where a thing is situated.—(Dunlap.)

192 Q.—What is meant by the lex loci contractus?
A.—It is the law of the place of the contract.—(Dunlap.)

193 Q.—What is lex-fori?
A.—The law of the place where the action is brought.—(Bouvier.)

194 Q.—When does each govern.
A.—An action on all immovable or real property is governed by the lex loci rei sitae, and all moveables, chattels, etc., are governed by the lex loci contractus, and all actions brought before any particular court are governed by the lex fori.—(Bouvier.)

195 Q.—What are the grounds for demurrer?
A.—(1) That the court has no jurisdiction. (2) That the plaintiff has no legal capacity to sue. (3) That there is another action pending between the parties for the same cause. (4) That there is a defect or misjoinder of parties plaintiff or defendant. (5) That

several causes of action have been improperly united. (6) That the complaint does not state facts sufficient to constitute a cause of action. (7) That the complaint is ambiguous, unintelligible or uncertain.—(C. C. P. 430.)

196 Q.—What is requisite to the validity of a marriage in this State?

A.—It is consent and solemnization.—(C. C. 55.)

197 Q.—What is meant by solemnization of a marriage?

A.—It is the entering into the marriage contract before any judge of the Supreme Court, judge of the Appellate Court, judge of the Superior Court, Justice of the Peace, judge of any Police Court, City Recorder, priest, or minister of the gospel of any denomination; and no particular form is required, but the parties must declare in the presence of the person solemnizing the marriage that they take each other as husband and wife.—(C. C. 70.)

198 Q.—What is meant by the authentication and recordation of marriage?

A.—The person solemnizing the marriage must make, sign and indorse upon, or attach to, the marriage license a certificate showing: 1st, the fact, time and place of solemnization; 2nd, the names and addresses of one or more witnesses to the ceremony, and 3rd, he must file the license and certificate with the County Recorder within 30 days after the marriage.—(C. C. 68.)

199 Q.—What will avoid a marriage?

A.—By either party being under the age of consent at time of marriage, and not obtaining the consent of their parents or guardians. (2) By either party having a husband or wife living at the time of marriage, and the marriage with such former husband or wife was then in force. (3) If either party was of unsound mind at the time of marriage. (4) If the consent of either party was obtained by fraud or force, and (5) That if either party was at the time of marriage physically incapable of entering into the marriage state. The exceptions to the above causes are if the parties afterward freely cohabit with each other as husband and wife.—(C. C. 82.)

200 Q.—When can an infant consent to marriage?

A.—In this State the male at the age of 18 years and female 15 years. —(C. C. 56.)

201 Q.—What is the separate property of the husband or wife?

A.—It is all of the property of either owned before marriage and that acquired afterward by gift, devise, bequest or descent or with the profits, rents or issues thereof.—(C. C. 162.)

202 Q.—Does the theory that a man and wife become one person in law prevail in this State?

A.—It does not.—(C. C. 157.)

203 Q.—Was it so at common law?

A.—It was.—(Blackstone.)

204 Q.—Who has control of the community property?
A.—The husband.—(C. C. 172.)

205 Q.—Where does community property go upon the death of husband?
A.—One-half goes to the surviving wife and the other half is subject to the testamentary disposition of the husband; and if he made no disposition of it, then it goes to his descendants equally according to their rights of representation.—(C. C. 1402.)

206 Q.—Where does community property go upon the death of wife?
A.—The entire community property goes to the surviving husband; except such portion as may have been set apart to her by judicial decree for her support and maintenance, which portion is subject to her testamentary disposition, and in the absence of such disposition goes to her descendants, exclusive of her husband.—(C. C. 1401.)

207 Q.—Can the husband dispose of community property without the wife's consent?
A.—He can for a valuable consideration.—(C. C. 172.)

208 Q.—What is a homestead?
A.—It is property set apart by the head of a family or other persons as a home and must be actually occupied by the claimant.—(C. C. 1237.)

209 Q.—Is it liable to execution?
A.—It is not except (1) For the satisfaction of judgment obtained before the declaration of homestead was filed for record. (2) On debts secured by mechanics', contractors', sub-contractors', architects', builders', laborers', material men's, or vendors' liens upon the premises. (3) Upon debts secured by mortgages on the premises executed and recorded before the homestead was filed for record. (4) And on debts secured by mortgage on the premises executed and acknowledged by both husband and wife or by the claimant if unmarried.—(C. C. 1241.)

210 Q.—Can it be incumbered?
A.—It can by both husband and wife consenting.—(C. C. 1242.)

211 Q.—How would you go about getting a homestead?
A.—By filing a declaration of homestead, properly signed and acknowledged with the County Recorder; containing (1) a statement showing that the person making it is the head of a family and if married, the name of his spouse; (2) a statement that the person making it is residing on the premises and claims the same as a homestead; (3) a description of the premises, and (4) an estimate of its cash value.—(C. C. 1263.)

212 Q.—Can the husband dispose of the homestead without the consent of the wife if it is taken from his separate property?
A.—He cannot.—(C. C. 1242.)

213 Q.—From what property can a homestead be taken?

A.—It can be taken from the community property, or separate property of husband, or by the consent of the wife it may be taken from her separate estate.—(C. C. 1238.)

214 Q.—Who may make a declaration of homestead?

A.—Any person who owns property and actually resides thereon.—(C. C. 1260.)

215 Q.—Who is considered the head of a family?

(1) Husband if the claimant is a married person. (2) Every person who has residing on the premises with him or her and under his or her care and maintenance any minor child, grandchild, brother, sister, or minor child of a deceased brother or sister, father, grandfather, mother or grandmother, the father, mother, grandfather or grandmother of a deceased husband or wife, or an unmarried sister or other relative who has attained the age of majority and are unable to take care of or support themselves.—C. C. 1261.)

216 Q.—Is there any limit placed on the value of a homestead?

A.—Yes; $5,000 if claimant is head of the family, and $1,000 if claimant is any other person.—(C. C. 1260.

217 Q.—Is there any remedy for creditors if the homestead exceeds the statutory value?

A.—There is by the application of a creditor to the Superior Court of the county in which the property is located for the appointment of persons to appraise the value thereof, by filing a verified petition showing: (1) The fact that an execution has been levied upon the homestead. (2) The name of the claimant, and (3) That the value of the homestead exceeds the amount of the homestead exemption.—C. C. 1245-6.)

218 Q.—For how long after the sale of a homestead are the proceeds exempt from execution?

A.—Six months.—(C. C. 1257.)

219 Q.—What kind of wills are there?

A.—Nuncupative, olographic and other written or executed wills.—(C. C. 1276-77-88.)

220 Q.—How may a nuncupative will be made?

A.—The decedent must, at the time, have been in actual military service in the field, or doing duty on shipboard at sea, and in either case in actual contemplation, fear, or peril of death, or the decedent must have been, at the time, in expectation of immediate death from an injury received the same day.—(C. C. 1289.)

221 Q.—How soon after a nuncupative will is made must it be reduced to writing?

A.—Within 30 days.—(C. C. 1290.)

222 Q.—How many witnesses are necessary?

A.—It requires two.—(C. C. 1289.)

223 Q.—How soon must it be filed for probate?
A.—Not earlier than 14 days after the death of the devisor, nor later than 6 months afterward.—(C. C. 1290-1.)

224 Q.—How much can be decreed by it?
A.—$1,000.—(C. C. 1289.)

225 Q.—Are any witnesses necessary to an olographic will?
A.—There need not be any witnesses.—(C. C. 1277.)

226 Q.—What effect does the marriage of a person have on a prior will?
A.—Will revoked in case of a woman; also in case of a man, where issue born, provided wife or issue of marriage survive him and the will does not provide for said survivor, or show intention not to so provide.—(C. C. 1298-9-1300.)

227 Q.—What will a posthumous child take if no provision is made for it in a will?
A.—The same portion of the testator's real and personal property that he would have succeeded to if the testator had died intestate.—(C. C. 1306.)

228 Q.—Suppose a will is made which does not revoke former ones, are the former wills good?
A.—They are, except those parts which are inconsistent with or conflict with the latter will.—(C. C. 1296.)

229 Q.—Between two inconsistent clauses in a will, which is preferred?
A.—The latter.—(C. C. 1321.)

230 Q.—Between two inconsistent clauses of a deed, which is preferred?
A.—The former.—(C. C. 1070.)

231 Q.—Could an alien inherit at common law?
A.—He could not.—(Blackstone.)

232 Q.—Can an alien inherit in this State?
A.—He can, provided he takes possession within five years.—(C. C. 672.)

233 Q.—What amendment to the constitution gives all persons equal protection of the law?
A.—The Fourteenth Amendment.—(U. S. Cons.)

234 Q.—How is the title to real property acquired?
A.—By purchase or the acts of the parties and by descent or the operation of law.—(Blackstone.)

235 Q.—Acts of the parties include what?
A.—Every mode of acquiring property except by descent.—(Blackstone.)

236 Q.—For what length of time is the Governor of the State of California elected?
A.—Four years.—(Cal. Cons.)

237 Q.—How long must one be a citizen of the United States and a resident of the State before he is eligible for the office of Governor?
A.—Five years.—(Cal. Cons.)

238 Q.—At what age?
A.—Twenty-five years.—(Cal. Cons.)
239 Q.—What are the official terms of a United States Senator?
A.—Six years.—(U. S. Cons.)
240 Q.—What is the representation of each State in the United States Senate?
A.—Two members.—(U. S. Cons.)
241 Q.—Do the people ever vote for the President or Vice President direct?
A.—They do not.—(U. S. Cons.)
242 Q.—What are the courts of record in this State?
A.—The Court of Impeachment, the Supreme, District Court of Appeal and Superior Courts.—(C. C. P. 33-4.)
243 Q.—How is a vacancy on the bench filled?
A.—By appointment by the Governor.—(Cal. Cons.)
244 Q.—How long does the appointment last?
A.—Until his successor is duly elected at the next general election.—(Cal. Cons.)
245 Q.—What is the length of a term of office of a justice of the Supreme Court in this State?
A.—Twelve years.—(Cal. Cons.)
246 Q.—What is the length of the term of a Superior Court judge?
A.—Six years.—(Cal. Cons.)
247 Q.—Has the Superior Court any original jurisdiction which is concurrent?
A.—Yes. (1) With Justice's courts in actions of forcible entry and detainer, where the rental value of the property entered upon or unlawfully detained does not exceed $25.00 per month, and the whole amount of damages claimed does not exceed $200.00. (2) In actions to enforce and foreclose liens on personal property, where neither the amount of the liens nor the value of the property amounts to $300.00. And with the Supreme Court and District Court of Appeal in writs of mandamus certiorari, prohibition and habeas corpus.—(C. C. P. 51-76-113.)
248 Q.—Has the Justice Court jurisdiction in cases in equity?
A.—It has not, except in foreclosure of chattel mortgages.—(C. C. P. 112.)
249 Q.—What sum limits the civil jurisdiction of the Justices Court?
A.—$299.99.—(C. C. P. 112.)
250 Q.—What is the term of office of a Justice of the Peace?
A.—Four years.—(C. C. P. 110.)
251 Q.—Give some of the canons of descent at common law.
A.—(1) Inheritance shall lineally descend to the issue of the person last actually seized, in infinitum, but shall never lineally ascend. (2) The male issue shall be admitted before the female. (3) When two or more males are in equal degree, the eldest only shall

inherit, but the females all together. (4) The lineal descendants, in infinitum, shall represent their deceased ancestor—that is, shall stand in the same place as he himself would had he lived. (5) On failure of lineal descendants, the inheritance shall descend to the collateral relations of the blood of the first purchaser, subject to the three preceding rules, to evidence which blood there are two rules, viz.: The collateral heir of the person last seized must be his next collateral kinsman of the whole blood, and in collateral inheritances the male ancestral stock shall be preferred to the female, unless the lands have descended from a female.—(Blackstone.)

252 Q.—To whom may a writ of prohibition be directed?

A.—To any inferior tribunal, corporation, board or person.—(C. C. P. 1103.)

253 Q.—What courts can issue it.

A.—Any court of record, except Court of Impeachment.—(C. C. P. 1103-34-37.)

254 Q.—What is eminent domain?

A.—It is the right of the people or government to take private property for public use.—(Black.)

255 Q.—When may it be exercised?

A.—It may be exercised in behalf of the following uses: For fortifications, navy and army stations, etc., and all other public uses authorized by the Government of the United States; for public buildings and grounds for the use of the State, and all other public uses authorized by the legislature of the State; for public buildings and grounds for the use of any county, incorporated city, town, village or school district; or canals, aqueducts, reservoirs, etc., for the conducting or storing water for the use of the inhabitants of any county, city, village or town; for wharves, docks, piers, chutes, roads, bridges, etc.; for use of any commodity or conveyance used in public transportation, etc.; for by-roads leading from highways to residences, farms, factories or any property used for public purposes; for telegraph and telephone lines; for sewerage of any city, town or community of ten families or more; for oil pipe lines, roads and flumes for logging and lumbering purposes; for canals, reservoirs, etc., for supplying and storing water for generating and transmitting electricity, heat, light and power lines; for cemeteries for the burial of the dead, and enlarging and adding to the same and grounds thereof; and for the plants of any individual firm or corporation engaged in searching the public records, including all copies thereof, all abstracts or memoranda taken from the public records. Providing the public records have been lost or destroyed by conflagration or other public calamity.—(C. C. P. 1238.)

256 Q.—What is an administrator?

A.—It is a person appointed by law to administer upon the property of a person dying intestate.—(C. C. P. 1365.)

257 Q.—What is the difference between an Executor and an Administrator?

A.—The former is named by the person in his will, and the latter is appointed by the court.—(C. C. P. 1301-65.)

258 Q.—What is a sole trader?

A.—It is a married woman, permitted by a Judgment of the Superior Court to carry on the particular business named in her petition. —(C. C. P. 1811.)

259 Q.—How may a wife become a sole trader?

A.—By giving a public notice of intention for four successive weeks in a newspaper and ten days prior to day set in notice, file with the Superior Court a verified petition setting forth (1) that the application is made in good faith to enable the applicant to support herself, and others dependent upon her, giving their names and relation; (2) the fact of insufficient support from her husband and causes thereof, if known; (3) any other grounds for application which are good causes for a divorce, with the reason why a divorce is not sought, and (4) the nature of the business proposed to be conducted, the capital to be invested therein if any, and the sources from which it is derived.—(C. C. P. 1813.)

260 Q.—How much of the community property or separate property of husband may a sole trader have?

A.—Not exceeding five hundred dollars.—(C. C. P. 1814.)

261 Q.—Who can object to a woman becoming a sole trader?

A.—Any creditor of the husband.—(C. C. P. 1815.)

262 Q.—What are the grounds of opposition?

A.—(1) By a specific denial of the truth of any allegation of the petition; (2) setting forth that the application is made for the purpose of defrauding the opponent; or (3) that the application is made to prevent, or will prevent, him from collecting his debt. —(C. C. P. 1815.)

263 Q.—What are the liabilities of a sole trader?

A.—She is not liable for any of the debts of her husband, but is liable for all her debts and is entitled to sue and be sued without being joined with her husband.—(C. C. P. 1819-20.)

264 Q.—What is accord and satisfaction?

A.—Accord is an agreement to accept in extinction of an obligation, something different from or less than that which the person agreeing to accept is entitled; satisfaction is acceptance by a creditor, of the consideration of an accord.—(C. C. 1521-23.)

265 Q.—What is a novation?

A.—It is the substitution of a new obligation for an existing one.—(C. C. 1530.)

266 Q.—What is an agent?

A.—An agent is one who represents another, called the principal, in dealings with third persons.—(C. C. 2295.)

267 Q.—Can an agent delegate his authority?

A.—He can unless specifically forbidden, in the following cases: (1) When the act to be done is purely mechanical; (2) when it is such as the agent cannot himself and the sub agent can lawfully perform; (3) when it is the usage of the place to delegate such powers; or (4) when such delegation is specially authorized by the principal.—(C. C. 2349.)

268 Q.—What things may an agent do?

A.—He may be authorized to do any acts which his principal might do, except those things to which the latter is bound to give personal attention.—(C. C. 2304.)

269 Q.—If an agent exceeds his authority who is responsible?

A.—The principal is bound by his authorized acts so far only as they can be plainly separated from those which were unauthorized. —(C. C. 2333.)

270 Q.—What is an estate in fee-tail?

A.—It was a conditional fee shorn of the right of alienation after condition performed, and vesting in the donor an indefeasible reversion.—(Blackstone.)

271 Q.—Have we estates in fee-tail in California?

A.—We have not.—(C. C. 763.)

272 Q.—What is an estate in tail after possibility of issue extinct?

A.—It occurs where one is a tenant in special tail and a person from whose body the issue was to spring dies without issue, or having left issue, that issue becomes extinct.—(Blackstone.)

273 Q.—Who was the casual ejector?

A.—The second friend of the adverse claimant who collusively ejected the first friend and who became the defendant in an action in ejectment.—(Blackstone.)

274 Q.—What is remainder?

A.—It is an estate limited to take effect and be enjoyed after another estate is determined, and created at same time and by same conveyance.—(Tiedeman.)

275 Q.—What is reversion?

A.—Reversion is the residue of an estate left in the grantor to commence in possession, after the determination of some particular estate granted out by him.—(Blackstone.)

276 Q.—Could remainders commence in the future?

A.—They could not.—(Blackstone.)

277 Q.—What fiction was invented to free fee-tails?

A.—Fines and common recoveries.—(Blackstone.)

278 Q.—What were common recoveries?

A.—They were suits for the recovery of land and were invented by the ecclesiastics to elude the statute of mort-main, but were afterwards encouraged by the judges, for by their use all limitations upon estates-tail were removed, and an absolute and pure fee simple passes as a legal effect.—(Sprague.)

279 Q.—Give kinds of corporations at common law.

A.—Aggregate and Sole; Ecclesiastical and Lay.—(Blackstone.)

280 Q.—How is a deed executed by a corporation?

A.—Ordinarily by signing the name of the corporation by the President and Secretary, with the corporate seal affixed, although the Board of Directors have the power to authorize any other members to execute same.—(C. C. 1161.)

281 Q.—Were divorces granted at common law?

A.—They were.—(Blackstone.)

282 Q.—For what causes?

A.—Causes generally recognized were adultery, impotency, cruelty, fraud in obtaining marriage and desertion.—(Blackstone.)

283 Q.—What is the rule in Shelly's case?

A.—It declares that when the ancestor, by any gift or conveyance, taketh an estate of freehold, and in the same gift or conveyance an estate is limited, either mediately or immediately, to his heirs, in fee or in tail, "his heirs," are words of limitation of the estate, and not words of purchase.—(Blackstone.)

284 Q.—Of what matters had ecclesiastical courts jurisdiction?

A.—Their jurisdiction extended over only such ecclesiastical matters as which it was supposed the Court of Rome, or the Pope, had proper or rightful reference.—(Blackstone.)

285 Q.—What is meant by conveyance?

A.—The term conveyance embraces every instrument in writing by which any estate or interest in real property is created, aliened, mortgaged or incumbered, or by which the title to any real property may be effected, except wills.—(C. C. 1215.)

286 Q.—What is recrimination?

A.—It is a showing by the defendant of any cause of divorce, against the plaintiff, in bar, of the plaintiff's cause of divorce.—(C. C. 111.)

287 Q.—What ceremony was necessary to marry at common law?

A.—No formalities were necessary.—(Blackstone.)

288 Q.—Give kinds of guardians mentioned in Blackstone.

A.—In chivalry, in socage, by nature and for nurture.—(Blackstone.)

289 Q.—What will destroy an estate in joint tenancy?

A.—It will be dissolved by destroying any one of its constituent unities. Viz.: Unity of time, title, interest or possession.—(Blackstone.)

290 Q.—Have we tenancy in common in California?

A.—Yes.—(C. C. 686.)

291 Q.—Have we joint tenancy in California?
A.—Yes.—(C. C. 683.)

292 Q.—How may joint tenancy be created?
A.—Only when created by a single will or transfer, and expressly declared in the will or transfer to be a joint tenancy.—(C. C. 683.)

293 Q.—What is a lease?
A.—A lease is an agreement for the possession of property for a specified period not exceeding fifty years.—(C. C. 717-8.)

294 Q.—What leases must be in writing?
A.—Any lease the terms of which are for a longer period than one year.—(C. C. 1624.)

295 Q.—What is a real action?
A.—It is an action for the recovery of real property.—(Blackstone.)

296 Q.—What is a mixed action?
A.—It is an action for the recovery of real property and also for damages for any wrong sustained in respect to such property.—(Perry.)

297 Q.—What is a personal action?
A.—It embodies all actions other than real and mixed.—(Perry.)

298 Q.—Into what two classes are actions divided with reference to "form of actions"?
A.—Ex-delicto and ex-contractu.—(Blackstone.)

299 Q.—Can a lease be assigned?
A.—It can.

300 Q.—At common law in whom was title to property supposed to vest?
A.—In the King.—(Blackstone.)

301 Q.—Must a conveyance of real estate be in writing?
A.—All conveyances, except a lease not to exceed one year, must be in writing.—(C. C. 1091.)

302 Q.—What is an executory contract?
A.—It is one where some future act is to be done by one or more of the parties.—(C. C. 1661.)

303 Q.—Can a contract be made by a minor child?
A.—Yes, excepting a contract relating to real property or an interest therein, or relating to any personal property not in his immediate possession and control.—(C. C. 33-36.)

304 Q.—What is a good consideration?
A.—It is one such as is founded on natural duty, love and affection.—(Black.)

305 Q.—What is a valuable consideration?
A.—It is one for money or its equivalent, or for marriage.—(Black.)

306 Q.—What is meant by an estate in fee?
A.—It is an estate which one has where lands are given to him and to his heirs absolutely without any end or limit to his estate.—(Blackstone.)

307 Q.—What is an estate by courtesy?

A.—It is where a man survives a wife who was seized with an estate in fee-simple or fee-tail, and has had issue by her born alive, capable of inheriting the wife's estate as heir to her; on the death of the wife he will hold the estate during his life as tenant by courtesy of England.—(Blackstone.)

308 Q.—What is dower?

A.—It is a species of life estate which a woman is, by law, entitled to claim on the death of her husband, in the lands and tenements of which he was seized in fee during coverture.—Blackstone.)

309 Q.—What is the meaning of the word Seisin at common law?

A.—It means the possession by the tenant of a freehold estate.—(Blackstone.)

310 Q.—What was Livery of Seisin?

A.—It was the delivery of possession of a freehold estate.—(Black.)

311 Q.—How was it accomplished?

A.—Either by going upon the land or being in sight of it and by an open and notorious delivery, gave possession thereof in the presence of other vassals.—(Blackstone.)

312 Q.—What is meant by publishing a will?

A.—It is the declaring of the will by the testator in the presence of the witnesses to be his last will and testament.—(C. C. 1276.)

313 Q.—Can a witness give his opinion of the sanity of the testator without qualifying as an expert?

A.—He can.—(C. C. P. 1870.)

314 Q.—How is a will revoked?

A.—It can be revoked: (1) By a written will or other writing of the testator declaring such revocation and executed with the same formalities with which a will should be executed by such testator; or (2) by being burned, torn, canceled, obliterated or destroyed with the intent and for the purpose of revoking the same by the testator himself, or by some person in his presence and by his direction.—(C. C. 1292.)

315 Q.—If a man dies intestate where does his property go?

A.—It passes to the heirs of the intestate subject to the control of the probate court and to the possession of any administrator appointed by the court for the purposes of administration.—(C. C. 1384.)

316 Q.—Give some of the rules for the distribution of the property of an intestate.

A.—(1) If the deceased leaves a surviving husband or wife and only one child, or the lawful issue of one child, the estate will be divided in equal shares to the surviving husband or wife and child or issue of child. (2) If the decedent leaves a surviving husband or wife and more than one child living or one child

living and the lawful issue of one or more deceased children then one-third goes to the surviving husband or wife and the remainder in equal shares to the children and the lawful issue of any deceased child by right of representation; but if there is no child of decedent living at his death, then the remainder will go to all of his lineal descendants and they shall share according to the right of representation. (3) If the decedent leaves no surviving husband or wife but leaves issue the whole estate goes to such issue in equal shares. (4) If the decedent leaves no issue nor husband nor wife the estate must go to his father, or mother, in equal shares, and if either is dead then to the other; and if there is neither issue, husband, wife, father or mother, then in equal shares to the brothers and sisters of decedent by right of representation. (5) If the decedent leaves no husband, wife or kindred and there are no heirs to take his estate or any portion thereof the same escheats to the state for the support of the common schools.—(C. C. 1386.)

317 Q.—What is a trust?

A.—A trust is an obligation arising out of the personal confidence reposed in, and voluntarily accepted by, one for the benefit of another; or one which is created by operation of law.—(C. C. 2216-17.)

318 Q.—What are the names of the parties to a trust?

A.—Trustor, Trustee and Beneficiary.—(C. C. 2218.)

319 Q.—Can you apply for a writ of habeas corpus to the Superior Court of another county?

A.—No.—(C. C. P. 76.)

320 Q.—Can the Supreme Court grant a writ of habeas corpus in exercise of appellate jurisdiction?

A.—No.—(P. C. 1474.)

321 Q.—When will a writ of review be issued?

A.—Only when an inferior tribunal, board or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board or officer and there is no appeal nor, in the judgment of the court, any plain, speedy and adequate remedy.—(C. C. P. 1068.)

322 Q.—If the Superior Court refuses to try a case on appeal from the Justices Court what is the remedy?

A.—By writ of mandamus.—(C. C. P. 1085.)

323 Q.—What is bailment?

A.—It is a delivery of goods in trust upon contract, express or implied, that the trust shall be faithfully executed on the part of the bailee and the goods restored as soon as the purpose of the bailment shall be accomplished.—(C. C. 1814.)

324 Q.—What degree of care must be used?

A.—(1) Gratuitous depositary, must use, at least, slight care.—(C. C. 1846). (2) Depositary for hire, must use, at least ordinary care. —(C. C. 1852.) (3) Borrower for use, must use great care.—(C. C. 1886-96.)

325 Q.—What is a pledge of personal property?

A.—It is a deposit of personal property by way of security for the performance of another act.—(C. C. 2986.)

326 Q.—Who has possession under a pledge?

A.—The pledgee has possession.—(C. C. 2986.)

327 Q.—What is a demurrer?

A.—A demurrer is an excuse for not pleading; it admits the truth of the facts alleged, but denies their legal sufficiency.—(Gould.)

328 Q.—What are leading questions?

A.—They are questions put or framed in such a form as to suggest the answer sought to be obtained by the person interrogating. —(C. C. P. 2046.)

329 Q.—What are hypothetical questions?

A.—They are a combination of assumed or proved facts and circumstances stated in such form as to constitute a coherent and specific situation or state of facts upon which the opinion of an expert is asked by way of evidence on a trial.—(Black.)

330 Q.—What is a plea?

A.—It is the answer which the defendant in an action at law makes to the plaintiff's declaration, in which he sets up matters of fact as defense.—(Blackstone.)

331 Q.—Into what two classes are pleas divided?

A.—Into dilatory and peremptory pleas.—(Blackstone.)

332 Q.—What is a dilatory plea?

A.—It is a defense founded on some matter of fact not connected with the merits of the case but such as might exist without impeaching the right of action itself.—(Blackstone.)

333 Q.—What is a peremptory plea?

A.—It is a plea which goes to destroy the right of action itself; a plea in bar to the action.—(Blackstone.)

334 Q.—What is meant by the term, riparian rights?

A.—It is the right of owners of land on the banks of water courses, relating to the water, its use, ownership of soil under the stream, accretions, etc.—(C. C. 829.)

335 Q.—Is there any distinction with reference to the right upon the shore of the ocean and that of an inland lake?

A.—When the land borders on tide waters, the owner takes to the ordinary high water mark; where the land borders on a navigable lake or stream where there is no tide, the owner takes to the water's edge at low water mark; and where the land borders on any other stream or lake, the owner takes to the middle of such stream or lake.—(C. C. 830.)

336 Q.—To whom does the land lying between the line at high water mark and the line of low water, what is known as tide lands, belong?

A.—To the State.—(C. C. 670.)

337 Q.—What is an alternative writ?

A.—It is a writ demanding the person against whom it is issued to do a special thing, or show cause to the court why he has not done so.—(C. C. P. 1087.)

338 Q.—What is the difference between an alternative and peremptory writ?

A.—A peremptory writ must be similar in form to an alternative writ, except that the words "requiring the party to show cause why he should not be absolutely, etc.," must be omitted, and a return day inserted.—(C. C. P. 1104.)

339 Q.—Can a writ of prohibition be either alternative or peremptory?

A.—It can.—(C. C. P. 1104.)

340 Q.—What is forcible entry?

A.—Every person is guilty of a forcible entry who either: (1) By breaking open doors, windows or other parts of a house, or by any kind of violence or circumstance of terror enters upon or into any real property; or (2) who, after entering peaceable upon real property, turns out by force, threats or menacing conduct, the party in possession.—(C. C. 1159.)

341 Q.—What is the remedy of a beneficiary for refusal of trustee to apply money as directed by the trust?

A.—Order of court.—(C. C. 2237.)

342 Q.—What is partition?

A.—It is any division of real or personal property between co-owners or co-proprietors.—(C. C. P. 764.)

343 Q.—What is the distinction between latent and patent ambiguity?

A.—In the former the language employed is clear, but some extrinsic fact creates the necessity for an interpretation between two or more possible meanings; and in the latter the language used appears upon the face of the instrument to be defective, obscure or insensible.—(Blackstone.)

344 Q.—What was an action of assumpsit at common law?

A.—It was an action brought to recover damages for the breach of a contract not under seal.—(Blackstone.)

345 Q.—What is fraud?

A.—Fraud embraces every kind of artifice, by which one person can obtain an undue advantage over another.—(Robinson Ele. Law.)

346 Q.—What is the liability of inland carriers?

A.—Unless the consignor accompanies the freight and retains exclusive control thereof, an inland common carrier of property is liable for loss or injury thereof from any cause whatever, except:

(1) An inherent defect in the property itself, (2) The act of a public enemy, (3) The act of the law, (4) Any irrestible superhuman cause. The common carrier even in the excepted cases and in case of delay is liable by his want of ordinary care.—(C. C. 2194-6.)

347 Q.—What acts does the civil code declare constitute fraud?

A.—(1) The suggestion, as a fact, of that which is not true, by one who does not believe it to be true. (2) The positive assertion in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true. (3) The suppression of that which is true, by one having knowledge or belief of the facts. (4) A promise made without any intention of performing it; or (5) any other act fitted to deceive.—(C. C. 1572.)

348 Q.—What is a test of materiality?

A.—An allegation is material when if it were stricken from the pleadings, the pleading would be insufficient. It is one which if denied and not proved would prevent the plaintiff from recovering.—(Pomeroy.)

349 Q.—What is specific performance?

A.—It is the performance of a contract in the specific form in which it was made, or according to the precise terms agreed upon.—(Bouvier.)

350 Q.—Can all contracts be specifically enforced?

A.—They cannot.—(C. C. 3390.)

351 Q.—What are the pleadings in equity?

A.—(1) Bill. (2) Answer, plea, demurrer or disclaimer. (3) Replication.—(Dunlap.)

352 Q.—What is an injunction?

A.—It is a writ or order requiring a person to do or refrain from a particular act.—(C. C. P. 525.)

353 Q.—What has been your education and training in the study of law?

A.—(Give answer in accordance with the course you have pursued.)

354 Q.—For what length of time is a Senator in this State elected?

A.—Four years.—(Cal. Cons.)

355 Q.—For what length of time is an Assemblyman elected?

A.—Two years.—(Cal. Cons.)

356 Q.—When a vacancy occurs in either House, how is it filled?

A.—By special election called by the Governor or other person exercising the functions of Governor.—(Cal. Cons.)

357 Q.—Can one who has taken up land under the homestead law of the United States sell the same before patent is issued?

A.—He cannot.

358 Q.—What is a trade-mark?

A.—It is a name or device used by a seller in connection with goods sold by him, to indicate that they are made by him, or that he

has some exclusive right to sell them, and thus to secure to him the profits arising from the peculiar character of the goods bearing that mark.—(Parsons.)

359 Q.—Can a constable convey title to realty issued under a justice's judgment?

A.—He can, in same manner as a sheriff.—(P. C. 4315.)

360 Q.—Which is the broader term, "hereditament" or "tenement"?

A.—Hereditament.—(Blackstone.)

361 Q.—What incidents attain to joint tenancy that do not attend tenancy in common.

A.—The unities of title, time and interest.—(Blackstone.)

362 Q.—What is an estate at sufferance?

A.—It is the interest of a tenant, who has come rightfully into the possession of lands by permission of the owner, and continues to occupy the same after the period for which he is entitled. —(Blackstone.)

363 Q.—What guarantee is there for the security of private property from confiscation.

A.—The Constitution of the United States.—(U. S. Cons.)

364 Q.—How is the value of property taken for public purposes estimated.

A.—By the Superior Court or jury in condemnation proceedings in an action in eminent domain.—(C. C. P. 1248.)

365 Q.—If the opposing counsel offered to prove the contents of a deed by the testimony of witnesses who had read it, what would you do?

A.—I would enter an objection.—(C. C. P. 1830.)

366 Q.—What grounds would you give for objecting?

A.—That the deed itself is the best evidence.—(C. C. P. 1829.)

367 Q.—Is parol evidence ever admissible to prove contents of a written instrument?

A.—It is.—(C. C. P. 1855.)

368 Q.—Can a jury be taken out of a courtroom to view a place where crime was committed?

A.—It can.—(P. C. 1119.)

369 Q.—When can secondary evidence be used?

A.—Only in the absence of primary evidence.—(C. C. P. 1855, 1907-38.)

370 Q.—What is a nuisance?

A.—Anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal or basin, or any public park, square, street or highway, is a nuisance.—(C. C. 3479.)

371 Q.—If the principal's act must be in writing, must the agent's authority be in writing?

A.—Yes.—(C. C. 2309.)

372 Q.—Does a bailee have a lien on property?
A.—He does.—(C. C. 3051.)

373 Q.—What is the meaning of ss?
A.—Scilicet (you may know), that is to say, to-wit, namely.

374 Q.—Distinguish between general issue and traverse.
A.—A general issue is a denial by short formulae of all material allegations of a declaration. A traverse is a denial of particular facts previously pleaded by an adversary.—(Gould.)

375 Q.—Is a contract based upon an illegal consideration a valid one?
A.—It is not.—(Parsons.)

376 Q.—If one of the parties to a contract is mentally weak, or if the consideration has been obtained by fraud, is there any relief?
A.—Yes.—(C. C. 1565.)

377 Q.—Can oral testimony be introduced to explain the meaning of an ambiguous contract?
A.—It can.—(C. C. P. 1856.)

378 Q.—Does the court or jury interpret the words of a contract?
A.—The court.—(Parsons.)

379 Q.—Can a contract be contradicted by oral testimony?
A.—It cannot.—(C. C. P. 1856.)

380 Q.—What is the difference between a void and a voidable contract?
A.—The former cannot be enforced, while the latter may be made a valid contract by a later confirmation.—(Parsons.)

381 Q.—If one of the parties refuse to perform his part of a contract, what is the remedy?
A.—An action for damages or specific performance.—(C. C. 3281, 3384.)

382 Q.—Have you read the books prescribed by us?
A.—(Answer according to books read.)

383 Q.—How does a contract differ from an obligation?
A.—A contract is an agreement between two or more parties, upon sufficient consideration, to do or not to do a certain thing; and an obligation is a legal duty by which a person is bound to do or not to do a certain thing; and arises either from a contract of the parties or by operation of law.—(C. C. 1427, 1549.)

384 Q.—How did the term "Freehold" originate?
A.—It was the name given to an estate at common law held in consideration of homage and knight service, and created by livery of seisin. It was called freehold, being the least estate which could be bestowed upon a freeman.—(Blackstone.)

385 Q.—What are the essentials of a grant?
A.—(1) It must be in writing. (2) It takes effect only upon its delivery by the grantor, and (3) It cannot be delivered to the grantee conditionally, but must be absolute.—(Blackstone.)

386 Q.—Can a grant be oral?

A.—It cannot.—(C. C. 1053.)

387 Q.—Is evidence the same as proof?

A.—It is not. Evidence is the means sanctioned by law, of ascertaining in a judicial proceeding the truth respecting a question of fact; and proof is the effect of evidence; the establishment of a fact by evidence.—(C. C. P. 1823-4.)

388 Q.—To what degree of certainty must facts be established?

A.—Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.—(C. C. P. 1826.)

389 Q.—What is meant by judicial knowledge?

A.—It is the act by which a court, in conducting a trial, or forming a decision, will, of its own motion, and without the production of evidence, recognize the existence and truth of certain facts having a bearing on the contraversy at bar.—(C. C. P. 1827-75-2102.)

390 Q.—What are some of the things which courts take judicial notice?

A.—(1) The true signification of all English words and of all legal expressions. (2) Whatever is established by law. (3) Public and private official acts of the legislative, executive and judicial departments of the State and the United States. (4) The seals of all courts of this State and the United States. (5) The accession to office and the official signatures and seals of office of all the principal officers of the Government, both State and National. (6) The existence, title, national flag, and seal of every State or sovereign recognized by the executive power of the United States. (7) The seals of courts of admiralty and maritime jurisdiction and notaries public. (8) The laws of nature, the measure of time and the geographical divisions and political history of the world.—(C. C. P. 1875.)

391 Q.—Have you attended the courts?

A.—Answer according to experience.

392 Q.—How are degrees of consanguinity computed at common law?

A.—They are computed by beginning at the common ancestor and reckoning downward, and in whatever degree the two persons are distant from the common ancestor is the degree of relationship between them.—(Blackstone.)

393 Q.—Give the difference between a guardian by nature and a guardian for nurture.

A.—Guardian by nature is father, on death of father, mother (English Law), extended to the person and heir apparent only and ended with minority. Guardian for nurture, first, father, then mother extended to the person only and included other children not heir apparent and terminated at the age of fourteen years. In this country merged with higher guardianship by nature, and extends to all children.—(2 Kent.)

394 Q.—What is the difference between a vested and contingent estate?
A.—A future interest is vested when there is a person in being who would have a right, defeasible or indefeasible, to the immediate possession of the property, upon the ceasing of the intermediate or precedent interest. A future estate is contingent where the person in whom or the event upon which it is limited to take effect remains uncertain.—(C. C. 694-5.)

395 Q.—Give a general idea of the feudal system under the common law?
A.—It had its origin from the military policy of the Northern or Celtic nations; by which allotments of large parcels of land were made by the conquering chief to the superior officers of their armies; and by them dealt out again, in smaller parcels, to the inferior officers and most deserving soldiers under them, as a stipend or reward for their services, and on condition that the donee would continue to faithfully serve him, who gave it, both at home and in wars.—(Blackstone.)

396 Q.—What was a special contract at common law?
A.—A contract under seal.—(Blackstone.)

397 Q.—How soon must an action be brought for trespass on real property?
A.—Within three years.—(C. C. P. 338.)

398 Q.—For the recovery of real property?
A.—Within five years after the plaintiff was seized and possessed of the property.—(C. C. P. 318.)

399 Q.—For the specific recovery of personal property?
A.—Within three years.—(C. C. P. 338.

400 Q.—An action on the ground of fraud or mistake?
A.—Within three years after the discovery of the facts constituting the fraud.—(C. C. P. 338.)

401 Q.—How soon after filing complaint must plaintiff have summons issued?
A.—Within one year.—(C. C. P. 406.)

402 Q.—What is testimony?
A.—It is evidence given by a witness, under oath or affirmation.—(Bouvier.)

403 Q.—What is the difference between conclusive and prima facie evidence?
A.—The former is evidence which the law does not permit to be contradicted, and the latter is evidence which suffices for the proof of a particular fact until contradicted or overcome by other evidence.—(C. C. P. 1829-37.)

404 Q.—What is the meaning of incompetent, irrelevant and immaterial when used as an objection to certain evidence?
A.—Incompetent means improper; irrelevant means not supporting the issue; and immaterial means not important, pertinent or decisive.—(Bouvier.)

405 Q.—What are presumptions of law?

A.—A presumption of law is a deduction which the law expressly directs to be made from particular facts.—(C. C. P. 1959.)

406 Q.—What are presumptions of fact?

A.—They are inferences as to the existence of some fact drawn from the existence of some other fact.—(Greenleaf.)

407 Q.—What are the purposes of pleading?

A.—To supply a record identifying the parties to the action, the subject-matter of it, and the tribunal before which it is brought; to produce distinct issues between the parties and to serve in exceptional instances as evidence in the cause, as well as in all cases to indicate what proofs will be offered on the trial of it.—(Gould.)

408 Q.—To what facts should the matter stated in pleadings be confined?

A.—To the facts material to the issue or complaint.—(Gould.)

409 Q.—What is an action in ejectment?

A.—It is an action for the recovery of the possession of land, and for damages for the unlawful detention thereof.—(Perry.)

410 Q.—How was an action of ejectment classified?

A.—As a mixed action ex-delicto.—(Perry.)

411 Q.—What is insurance?

A.—Insurance is a contract whereby one undertakes to indemnify another against loss, damage or liability, arising from an unknown or contingent event.—(C. C. 2527.)

412 Q.—How was an action commenced at common law?

A.—By the plaintiff suing out an original writ suitable to his particular case.—(Perry.)

413 Q.—What was the form of action in which the real owner received the profits and rents?

A.—An action for mesne profits; in form, an action of "trespass."—(Perry.)

414 Q.—Is there more than one way to serve a summons?

A.—Yes. By an officer, by an individual and by publication.—(C. C. P. 411-12.)

415 Q.—How is the return made by an officer?

A.—The summons must be returned with his certificate of service, and of the service of a copy of the complaint, where such copy is served, to the office of the clerk from which it issued.—(C. C. P. 410.)

416 Q.—How is the return of a summons made by an individual?

A.—It must be returned to the office of the clerk from which it issued, with an affidavit of such person of its service.—(C. C. P. 410.)

417 Q.—Suppose the party to be served concealed himself in order to avoid service. How would you acquire jurisdiction in that case?

A.—By publication of summons.—(C. C. P. 412.)

418 Q.—How long must a summons be published?

A.—At least sixty days.

419 Q.—How long a time after time of publication expires has the party against whom summons issued have to answer?

A.—Thirty days.—(5 Cal. 465-6.)

420 Q.—What pleadings must be verified?

A.—Every pleading must be verified when the complaint is verified, or when the State, or any officer of the State, in his official capacity, is plaintiff, unless the admission of the truth of the complaint might subject the party to a criminal prosecution, or unless an officer of the State, in his official capacity, is defendant.—(C. C. P. 446.)

421 Q.—Can the contents of a receipt be contradicted by oral evidence?

A.—It can.—(C. C. P. 1962.)

422 Q.—What is perjury?

A.—It is the willful giving, under oath, in a judicial proceeding, of false testimony material to the issue or point of inquiry.—(P. C. 118.)

423 Q.—Does trover still exist in California?

A.—Not under same name.

424 Q.—What maxim of construction is applicable to all pleadings?

A.—In the construction of a pleading, for the purpose of determining its effect, its allegations must be liberally construed, with a view to substantial justice between the parties.—(C. C. P. 452.)

425 Q.—How does a demurrer affect the facts stated in a pleading?

A.—It admits the facts and refers the law arising thereon to the court.—(C. C. P. 430.)

426 Q.—Is there any place in our codes where the maxims of equity are made a part of it?

A.—Yes; Title IV, Part IV, Civil Code.

427 Q.—For what purpose may bills of discovery be used?

A.—It is a bill in equity, filed to obtain a discovery of facts resting in the knowledge of the defendant, or of deeds, or writings, or other things in his custody or power.—(Barton.)

428 Q.—Where must all actions relating to real property be tried?

A.—Superior Court.—(C. C. P. 76.)

429 Q.—What liabilities for debts of corporation attach to its stockholders?

A.—Each stockholder of a corporation is individually and personally liable for such proportion of all its debts and liabilities contracted or incurred during the time he was a stockholder as the amount of the stock or shares owned by him bears to the whole subscribed capital stock or shares of the corporation.—(C. C. 322.)

430 Q.—Is a stockholder liable for debts transferred with the stock?
A.—Tranferee is not liable.—(C. C. 322.)
431 Q.—How are shares of a corporation attached?
A.—By leaving with the President, or other head, or Secretary, Cashier, or other managing agent thereof, a copy of the writ, and a notice stating that the stock or interest of the defendant is attached in pursuance of such writ.—(C. C. P. 542.)
432 Q.—What are the mutual obligations of husband and wife?
A.—They are the obligations of mutual respect, fidelity and support.—(C. C. 155.)
433 Q.—Who chooses the place of residence?
A.—The husband.—(C. C. 103-156.)
434 Q.—Is community property liable for the wife's debts after marriage?
A.—No; unless secured by pledge or mortgage thereof executed by the husband.—(C. C. 167.)
435 Q.—Who is entitled to the care and custody of the child?
A.—The father is entitled to the custody, services and earnings of the child, but the court may, on application, where husband and wife live in a state of separation, award the custody of such minor child to either, for such time and under such regulations as the case may require.—(C. C. 197.)
436 Q.—In what cases are parties deprived of a jury?
A.—In all cases in which trial by jury was denied at common law, e. g., equity cases, divorce suit. (72 Cal 338, 5 Cal. 192, 64 Cal. 266.)
437 Q.—What is a custom?
A.—Custom is a usage or practice which, by long and continued habit, has become compulsory and acquired the force of law.—(Blackstone.)
438 Q.—Do you know of any of the particular customs?
A.—Gavel kind, customs of London, etc.—(Blackstone.)
439 Q.—What is an estate in lands?
A.—It is the interest that any one has therein.—(Bouvier.)
440 Q.—What is the highest estate that you know of?
A.—Fee-simple.—(Blackstone.)
441 Q.—Why is it called a fee?
A.—Because it imparts an absolute inheritance clear of any condition, limitation or restriction, and when not disposed of by will descends to the heirs generally.—(Black.)
442 Q.—Mention the different kinds of bailment?
A.—Depositum, mandatum, commodatum, pignori-acceptum and locatum.—(Blackstone.)
443 Q.—In which of these was there consideration?
A.—Locatum.
444 Q.—What is a leasehold estate?

A.—It is an estate for a specified term not to exceed fifty years.—(C. C. 718.)

445 Q.—To what extent is the common law in force in California?

A.—Only where the codes and statutes are silent.—(C. C. 5.)

446 Q.—What is an indorser?

A.—It is a person who writes his name on the back of a bill of exchange, promissory note, etc.—(C. C. 3108.)

447 Q.—Give an example of a promissory note?

A.— Los Angeles, California, January 10, 1900.

On demand, after date, for value received, I promise to pay to John Doe, or order, at Los Angeles, California, the sum of five dollars, with interest at the rate of seven per cent per annum until paid.

(Signed.) ——————————.

448 Q.—What is a corporeal hereditament?

A.—They are such that affect the senses; they consist wholly of permanent and substantial objects and come under the general denomination of land.—(Blackstone.)

449 Q.—What are incorporeal hereditaments?

A.—They are rights annexed to corporeal property, whether real or personal; they are creatures of the mind, and exist only in contemplation.—(Blackstone.)

450 Q.—How many are given?

A.—Ten—advowsons, tithes, commons, ways, offices, dignities, franchises, corodies, annuities and rents.—(Blackstone.)

451 Q.—What is a chattel mortgage?

A.—It is a contract in writing by which specific personal property is hypothecated for the performance of an act without the necessity of a change of possession.—(C. C. 2920.)

452 Q.—What is a respondentia bond?

A.—It is a contract by which a cargo or some part thereof is hypothecated as a security for a loan, the repayment of which is dependent on maritime risks.—(C. C. 3036.)

453 Q.—Who was Kent?

A.—James Kent was an American jurist, born in Phillipi, New York, July 31, 1763; died December 12, 1847.

454 Q.—What work did he write?

A.—He was the author of "Commentaries on American Law," in four volumes, in 1826 to 1830.

455 Q.—Who was Puffendorf?

A.—Samuel Puffendorf was a German writer on law of nature and nations; born in 1632; died at Berlin, 1694.

456 Q.—Who was Grotius?

A.—Hugo Grotius or De Groot was a Dutch statesman; born in Holland in 1583; died 1645.

457 Q.—What is a bill of exceptions?
A.—It is a formal statement in writing of exceptions taken to rulings of the court during the trial of a cause.—(C. C. P. 649.)

458 Q.—How was the Constitution of the United States adopted?
A.—Ratification by the conventions of a majority of the thirteen States.—(U. S. Cons.)

459 Q.—What were the articles of confederation?
A.—The compact or constitution adopted by the Continental Congress in 1777.

460 Q.—What is a dying declaration?
A.—It is a declaration in anticipation of impending death.—(Bouvier.)

461 Q.—How is a treaty entered into?
A.—By the President, with consent of the Senate.—(U. S. Cons.)

462 Q.—What is new matter?
A.—It is that matter, under the rule of evidence, which the defendant must affirmatively establish.—(Pom. C. Rem.)

463 Q.—What is the object of new matter?
A.—New matter is to avoid the cause of action set forth in the complaint.—(Pom. C. Rem.)

464 Q.—If "A" makes a contract with "B," whereby he agrees to sell to "B" Lot 10 in a certain tract of land, and in drawing the contract he agrees to sell Lot 9, can "A" enforce the contract against "B" and compel him to pay for the lot mentioned in contract?
A.—He cannot.

465 Q.—What course would you pursue to remedy the mistake?
A.—By a proceeding in equity.—(Story.)

466 Q.—If a contract had been destroyed or lost, how would you prove it?
A.—By secondary evidence or the next best evidence.—(C. C. P. 1855-55A.)

467 Q.—How do you produce evidence of hand writing?
A.—By the handwriting of the person himself, by proof of some one familiar with the handwriting, or by expert testimony on handwriting.—(C. C. P. 1943-45.)

468 Q.—Can one introduce his books, his account books in evidence?
A.—He can.—(C. C. P. 1947.)

469 Q.—What is necessary to show in order to do that?
A.—They must be identified as the true books of original entry, or entries repeated in the usual course of business.—(C. C. P. 1946-7.)

470 Q.—Can a party to an action be a witness in his own behalf?
A.—Yes.—(C. C. P. 1879.)

471 Q.—Can a husband or a wife testify in an action between themselves?
A.—They can.—(C. C. P. 1881.)

472 Q.—Suppose you subpoena a witness in a case and he does not appear in court, how would you secure his presence there?
A.—By bench warrant.—(C. C. P. 1993.)

473 Q.—Suppose a person had books or documents which you wanted to have introduced in evidence, what would you do?
A.—If in the hands of opposite party, notice to produce; if in hands of any other person, serve subpoena duces-tecum.—(C. C. P. 1855, 1985.)

474 Q.—Suppose you were trying a case and you called an engineer, how would you qualify him to testify?
A.—By examining him as to his knowledge and experience.—(C. C. P. 1870.)

475 Q.—Are matters of opinion and belief ever competent?
A.—Yes.—(C. C. P. 1870.)

476 Q.—What particular expression is used in speaking of the proceedings for redress at common law?
A.—An action in a court of justice.

477 Q.—What were they called in equity?
A.—A suit in equity.—(Story.)

478 Q.—By whom were suits in equity tried?
A.—By the Court of Chancery.—(Story.)

479 Q.—By whom were actions at law tried?
A.—Common Law Courts.

480 Q.—What is the general rule to determine who shall be plaintiff and who defendant?
A.—The parties filing the complaint are the plaintiffs and the persons sued are the defendants.—(Blackstone.)

481 Q.—Give code definition of fixtures.
A.—A thing is deemed to be affixed to land when it is attached to it by roots as in the case of trees, vines or shrubs; or imbedded in it, as in the case of walls; or permanently resting upon it, as in the case of buildings; or permanently attached to what is thus permanent, as by means of cement, plaster, nails, bolts or screws.—(C. C. 660.)

482 Q.—What is a negotiable instrument?
A.—A negotiable instrument is a written promise or request for payment of a certain sum of money to order or bearer.—(C. C. 3087.)

483 Q.—Give different classes of negotiable instruments.
A.—Bills of Exchange, Promissory Notes, Bank Notes, Checks, Bonds and Certificates of Deposit.—(C. C. 3095.)

484 Q.—Can you name any facts which need not be stated in pleadings?
A.—Probative facts need not be stated.—(C. C. P. 309.)

485 Q.—Where must the defects attacked by demurrer appear?
A.—Upon the face of the complaint.—(C. C. P. 430.)

486 Q.—If they fail to appear upon the face, how can you take advantage of them?

A.—By answer.—(C. C. P. 433.)

487 Q.—When does the defendant interplead the general issue?

A.—In case where the defendant means to deny the whole or the principal part of the allegations of the declaration.—(Perry 241.)

488 Q.—What was found in equity that was absent in law courts?

A.—Specific relief.—(Story.)

489 Q.—Was the jurisdiction of Courts of Equity concurrent with those of law courts?

A.—They were not at common law.—(Story.)

490 Q.—Will equity relieve against a mistake of fact?

A.—Yes.—(Story.)

491 Q.—Will it against a mistake of law?

A.—No.—(Story.)

492 Q.—What does equity offer by way of remedy in case of mistake?

A.—It places both parties in the same status as before the mistake was made.—(Story.)

493 Q.—What is meant by equitable conversion?

A.—It is the transformation, by a doctrine of equity, of personal property into real estate, and of real estate into personal property.—(Story.)

494 Q.—When is fraudulent misrepresentation actionable?

A.—Whenever the injury is done or obligation is created.—(C. C. 1689, 3406.)

495 Q.—When is a transaction presumed to be made under undue influence?

A.—Every presumption will be indulged in against transactions by parties holding positions of trust and confidence.—(C. C. 1575. Note 15, 97 Cal. 140.)

496 Q.—Does laches bar the right of party who is injured by fraud?

A.—Yes.—(Story.)

497 Q.—When does the time of action begin to run?

A.—From the time the party has knowledge that the fraud has been perpetrated.—(C. C. P. 338.)

498 Q.—What are the principal actions for equitable relief?

A.—Injunction, Interpleader, Review, Recission, Foreclosure of Mortgages, Equitable Liens and Specific Performance.—(Eaton.)

499 Q.—Can recission be compelled for mere mistake where the parties cannot be placed in statu quo?

A.—No.—(C. C. 1689.)

500 Q.—Can an instrument be canceled in part?

A.—Only in certain cases.—(C. C. 3414.)

501 Q.—What is an injunction called which demands that a person restore things to former position?

A.—Mandatory.—(Story.)

502 Q.—What kinds of injunctions are there?
A.—Mandatory, prohibitory, interlocutary and permanent.—(C. C. P. 525, 1084, 1105.)

503 Q.—Can you bring an action in justice court amounting to $300?
A.—No.—(C. C. P. 112.)

504 Q.—How soon must an action be brought for the death of a person for the wrongful act of another?
A.—One year.—(C. C. P. 340.)

505 Q.—What persons are under such disability as to be removed from this rule?
A.—Insane, minors, or imprisoned persons.—(C. C. P. 352.)

506 Q.—What is the effect if the commencement of an action is enjoined?
A.—The right of action is not destroyed; only delayed.—(C. C. P. 356.)

507 Q.—What is the general rule for determining the place of trial for all actions.
A.—The residence of the parties and the kind and location of the property.—(C. C. P. 392-400.)

508 Q.—How many summons is a plaintiff entitled to?
A.—As many as he may demand within one year from date of filing complaint.—(C. C. P. 846-7, 408, 903.)

509 Q.—Suppose some of the parties were served and others not served, could you take judgment against those not served?
A.—No.—(C. C. P. 414, 989.)

510 Q.—Is there any requirement of verification of pleadings on part of the plaintiff?
A.—As a general rule, complaint does not need to be verified. Examples requiring verification: Action of forcible entry and detainer (C. C. P. 1166) and proceedings in injunctions (C. C. P. 527).

511 Q.—What is done with a sham or irrelevant answer?
A.—It is stricken out upon such terms as the court may, in its discretion, impose.—(C. C. P. 453.)

512 Q.—Is an affidavit ever accepted as evidence in a case?
A.—Not in a hearing of a case upon the issues.—(C. C. P. 2009-11.)

513 Q.—Name some writs mentioned in the code relating to real estate.
A.—Writ of possession and writ of assistance.—(C. C. P. 1210, 1254.)

514 Q.—How many actions can be had for the foreclosure of a mortgage?
A.—One.—(C. C. P. 726.)

515 Q.—What liability, if any, does one assume for unpaid subscriptions to stock by accepting transfers of the shares?
A.—He assumes all the liability there may be against the shares, which amount may equal the value of the shares at par.—(C. C. 322.)

516 Q.—Is it an offense for an attorney to advertise to procure a divorce in California?

A.—Yes.—(P. C. 159A.)

517 Q.—What is the grade of the offense?

A.—It is a misdemeanor.—(P. C. 159A.)

518 Q.—When is the plea res adjudicata a bar to an action?

A.—When shown by the plea that the action has been previously decided.—(Bouvier.)

519 Q.—When is the plea of another action pending between the same parties on the same subjects a good plea in this State?

A.—It is a good plea always.—(C. C. P. 430.)

520 Q.—What three things are necessary to constitute a valid trust?

A.—Words or acts sufficient to create proper parties (trustor, trustee and beneficiary), definite subject, certain and ascertained object. —(Eaton on Eq. C. C. 2221-2.)

521 Q.—How many kinds of nuisance are there?

A.—Public and private.—(C. C. 3480-81.)

522 Q.—Suppose a court refused to go on with a case, what would you do?

A.—Apply for writ of mandate.—(C. C. P. 1085.)

523 Q.—Mention any special proceedings.

A.—(1) Of a civil nature: writs of review, mandate, prohibition, summary proceedings, enforcement of liens, eminent domain and proceedings in probate. (2) Of a criminal nature: writ of habeas corpus, and coroner's inquest.—(Part 3 C. C. P. 1063 to 1822.)

524 Q.—What is the difference between a writ of injunction and prohibition?

A.—A writ of injunction is a writ issued against an individual commanding him to not do a certain thing, and a writ of prohibition is one directed to an inferior tribunal, corporation, board or officer commanding him not to do a certain thing which is without or in excess of his official jurisdiction.—(C. C. 525, 1102.)

525 Q.—Is it necessary to answer a cross-complaint?

A.—Yes.—(C. C. P. 442.)

526 Q.—How soon must an action be brought to recover money or other property deposited with any bank or trust company?

A.—There is no limitation.—(C. C. P. 348.)

527 Q.—How is an action commenced?

A.—By filing the complaint.—(C. C. P. 405.)

528 Q.—What is the purpose of demurrer?

A.—It is to raise an issue of law.—(Gould.)

529 Q.—In cases of foreclosure, are the parties entitled to jury?

A.—No.

530 Q.—May the record books be introduced in evidence to prove your deed when the original is lost?

A.—Yes.—(C. C. P. 1919-1950.)

531 Q.—How would you prove you lost your deed?
A.—The general rule is, that reasonable search be made in good faith to discover it, in place where last known to have been and by inquiry of persons likely to have it.—(Jones.)

532 Q.—What is the difference between the United States Constitution and the State Constitution?
A.—The Constitution of the United States is a delegation of power, while the State Constitution is a limitation of power.—(Black.)

533 Q.—What steps are necessary for the enactment of a statute?
A.—(1) It must have the enacting clause. (2) It must be read three times and regularly passed by a majority vote in both Houses and approved by the Governor or become operative in the manner prescribed by law when the Governor does not sign.—(Cal. Cons.)

534 Q.—How do we determine the validity or constitutionality of a law?
A.—It is tested by an action in court, in which such question may be incidentally involved.—(Cyc.)

535 Q.—Are there any instances in which the Supreme Court does not exercise appellate jurisdiction?
A.—Yes; in the exercise of its original jurisdiction, and in cases appealed from Justice to Superior Court.—(Cal. Cons. C. C. P. 50, 52 and 963.)

536 Q.—Does an injunction run against a court.
A.—It does not.—(C. C. P. 525-6.)

537 Q.—What process would you use to prevent another person from bringing an injunction against you if you had the right?
A.—You have no right to prevent him.

538 Q.—What is written evidence?
A.—It is documentary evidence.—(C. C. P. 1887.)

539 Q.—What is the difference between the knowledge of the court and the knowledge of the judge?
A.—The knowledge of the court are those things which the court must take cognizance of, while the knowledge of the judge are those things which he has knowledge of as an individual.—(Greenleaf.)

540 Q.—How is the knowledge of the court ascertained?
A.—The court takes judicial notice of certain facts and may resort for its aid to appropriate books or documents of reference.—(C. C. P. 1875.)

541 Q.—Can the legislature, whenever they feel disposed, change the constitution?
A.—No.

542 Q.—Do you think the Supreme Court can have any right to try any case that does not arise in the Supreme Court?
A.—The Supreme Court tries only matters of law.

543 Q.—How many Superior Courts are there in this State?
A.—One Superior Court for each county in the State.—(C. C. P. 65.)

544 Q.—How many judges are there?
A.—Ninety-four.

545 Q.—Can any of these courts have more than one judge?
A.—Yes.—(C. C. P. 66-7.)

546 Q.—What is the object of a summons?
A.—It is the notification to the defendant informing him of the pendency of an action and requiring him to appear and answer the complaint within a specified time.—(Bouvier.)

547 Q.—How would you serve a subpoena on a minor under 14 years of age?
A.—Either by serving the parent or guardian in the same manner as in other cases.—(C. C. P. 1722.)

548 Q.—How would you serve a subpoena upon a city or county?
A.—By serving the Mayor, President of Council, or Chairman of Board of Supervisors.—(C. C. P. 411.)

549 Q.—Why would you file a lis pendens?
A.—To give notice to the world.—(C. C. P. 409.)

550 Q.—Suppose defendant did not appear, then what?
A.—Enter default.—(C. C. P. 585.)

551 Q.—Suppose the property is sold and does not bring enough to satisfy the judgment, what would you do?
A.—Take a deficiency judgment.—(C. C. P. 726.)

552 Q.—What would you do if he had other property?
A.—Satisfy the deficiency from it.—(C. C. P. 726.)

553 Q.—How would you define jurisdiction.
A.—It is the right a court has to hear and determine a cause.—(Bouvier.)

554 Q.—How many kinds of jurisdiction are there?
A.—Origin, appellate and concurrent.—(C. C. P.)

555 Q.—How would you answer an action in the Superior Court?
A.—By service of a copy upon the adverse party and filing the original answer with the clerk of the Superior Court.—(C. C. P. 406-10, 527.)

556 Q.—How would you answer an action to annull a deed?
A.—Same manner as above.

557 Q.—How would you answer an action to declare a trust?
A.—Same manner as above.

558 Q.—Have the Supreme and Superior Courts any concurrent jurisdiction?
A.—Yes, when they have original jurisdiction in the same matter.—(Blackstone.)

559 Q.—Of what does the law of nations consist?
A.—The law of nature, compacts, leagues, treaties and agreements between the several nations.—(Blackstone.)

560 Q.—How is it enforced?
A.—It cannot be enforced except by resort to arms.

561 Q.—What is meant by best evidence?
A.—It is primary evidence or that which affords the greatest certainty of fact in question.—(C. C. P. 1829.)

562 Q.—What obligation is imposed upon every one by law?
A.—Every person is bound, without contract, to abstain from injuring the person or property of another, or infringing upon any of his rights.—(C. C. P. 1708.)

563 Q.—What is the difference between direct and circumstantial evidence?
A.—Direct evidence proves the fact in dispute directly, while circumstantial evidence tends to establish the fact in dispute by proving another.—(C. C. P. 1831-2.)

564 Q.—What is prima facie evidence?
A.—It is that evidence which supplies for the proof of a particular fact until contradicted and overcome by other evidence.—(C. C. P. 1833.)

565 Q.—Give an instance of indispensable evidence.
A.—To prove perjury or treason or probate a last will, more than one witness is required.—(C. C. P. 1967.)

566 Q.—Give code definition of land.
A.—Land is the solid material of the earth, whatever may be the ingredients of which it is composed, whether soil, rock or other substance.—(C. C. 659.)

567 Q.—How would you probate a last will.
A.—By petitioning the court having jurisdiction to have the will proved; setting forth in the petition: (1) Jurisdictional facts. (2) Whether or not person named as executor consents to act or renounces his rights to letters testamentary. (3) Names and ages of heirs or devisees of decedent. (4) Probable value and character of the property of the estate. (5) Name of person for whom letters testamentary are prayed. Serve notice on heirs and executor, if named, of time set for probate and furnish court with proof of service.—(C. C. P. 1300.)

568 Q.—What is the rule in regard to contributory negligence?
A.—If the evidence shows that the plaintiff was guilty of negligence contributory to the injury, there can be no recovery.—(C. C. 484, 1970.)

569 Q.—How far can an agent bind principal.
A.—So far as his authority either actual or ostensibly permits.—(C. C. 2299-2300.)

570 Q.—How far is principal responsible for torts of an agent?
A.—The principal is only responsible to third parties for negligence or wrongful acts connected with the transaction of the business of the agency, and any willful omission to fulfill an obligation of the principal.—(C. C. 2338-9-43.)

571 Q.—Is it the same as between servant and master?
A.—No; the rule is more strict in case of master and servant.—(Clark.)

572 Q.—If one of the parties to a contract is mentally weak, or if the consideration was obtained by fraud, is there any relief?
A.—Yes, by recission, which is by restoring to the other party everything received from him or by offering to do so upon condition that the other party shall do likewise.—(C. C. 1689.)

573 Q.—What is the "Statute of Frauds"?
A.—See Statute of Frauds (29 Charles II, Secs. 4 and 17), Clarke on Contracts, Page 90; also C. C. 1624.

574 Q.—What is meant by corruption of blood?
A.—The incapacity to inherit or pass an inheritance.—(Blackstone.)

575 Q.—When is blood supposed to be corrupted?
A.—When attainder has been had against the subject.—(Bouvier.)

576 Q.—How would you serve a man outside of the State?
A.—By publication.—(C. C. 412, 757, 1015.)

577 Q.—How would you prove service by publication?
A.—By the affidavit of the printer, his foreman or principal clerk, or affidavit of a deposit of a copy of the summons in the postoffice (if address is known), or by the written admission of defendant. —(C. C. P. 412-415.)

578 Q.—What must you do before you can get a writ of attachment?
A.—It is necessary to file an affidavit with the clerk of the court setting forth the amount the defendant is indebted to plaintiff over and above all legal set-offs and counter-claims. That said indebtedness is upon a contract for direct payment of money, either made or payable in this State, and that the payment of same is unsecured.—(C. C. P. 538.)

579 Q.—How may a defendant recover possession of property from the sheriff?
A.—After appearance, upon notice to plaintiff, defendant may apply to court for release of attachment. Before order is made court must require bond for redelivery of property or payment of judgment.—(C. C. P. 554-5.)

580 Q.—How do we try titles to land in California.
A.—By action to quiet title.—(C. C. P. 738.)

581 Q.—Has the Supreme Court appellate jurisdiction in divorce cases?
A.—Yes.—(C. C. P. 52.)

582 Q.—What is meant by appellate jurisdiction?
A.—It is that jurisdiction given by appeal or writ of error from the judgment of another court.—(C. C. P. 936-980.)

583 Q.—What is meant by original jurisdiction?
A.—It is that jurisdiction bestowed upon a tribunal in the first instance.—Bouvier.)

584 Q.—What action would you bring for conversion?
A.—Action for damages.—(C. C. P. 33-36-38.)

585 Q.—How is a complaint stated?

A.—It must be stated in a clear and concise manner, setting forth title of the action, name of the court and county in which the action is brought, names of parties, facts constituting the cause of the action and demand of relief.—(C. C. P. 426.)

586 Q.—What are the essentials of consent as applied to the parties of a cantract?

A.—(1) It must be free; (2) It must be mutual; and (3) It must be communicated by each to the other.—(C. C. 1565.)

587 Q.—What is the object of action?

A.—The enforcement or protection of a right, the redress or prevention of a wrong or punishment for public offense.—(Bouvier.)

588 Q.—What is a fellow servant.

A.—One engaged in the same department of labor under the same general control, with another.—(C. C. 1970.)

589 Q.—What is the test of a fellow-servant?

A.—Same master, work under same control and engaged in same department of labor. They who take the risk of each other's negligence.—(C. C. 1970.)

590 Q.—Are conductors and brakemen fellow-servants?

A.—They are.—(C. C. 1970.)

591 Q.—What is the difference between the common law and the law of this State in respect to husband and wife.

A.—At common law husband and wife were considered as one person, the wife not being legally competent to make contract, while in this State their mutual obligations are that of respect, fidelity and support. In all other ways their personal interests are separate.

592 Q.—Where does property go on death of husband in England?

A.—To the eldest son.—(Blackstone.)

593 Q.—What is perpetuity?

A.—Perpetuity is the suspension of the power of alienation beyond the period allowed by law. —(C. C. 715, 772.)

594 Q.—What is a judgment roll?

A.—It is a collection of all papers in an action from the complaint to judgment, which are required by law to be preserved and filed by clerk of the court and is called a judgment roll.—(C. C. P. 661-670.)

595 Q.—What is an arraignment?

A.—It is bringing the defendant to the bar of the court to answer the accusation contained in the indictment or information.—(P. C. 988.)

596 Q.—Who settles a statement on appeal?

A.—The court before whom the cause was tried.—(C. C. P. 661.)

597 Q.—What is meant by settling a statement?

A.—It is the acknowledgment of the court to the correctness of matters set forth in the statement.—(C. C. P. 975.)

598 Q.—What was the first step in getting a right to property?

A.—It was possession.—(Blackstone.)

599 Q.—Do you remember any dates as to when the right of inheritance began?

A.—It was an outgrowth of the feudal system and was established in England by King William I.—(Blackstone.)

600 Q.—What was the canon law?

A.—It was a body of the Roman ecclesiastical law relating to such matters as that church either had or claimed to have the proper jurisdiction over.—(Blackstone.)

601 Q.—How did the municipal law of the Roman Empire become adopted in England?

A.—It was at first adopted and made a part of the unwritten law by immemorial custom and usage.

602 Q.—Which were first made, the code or the institutes?

A.—The institutes.—(Blackstone.)

603 Q.—What were the principal laws that entered into the code?

A.—They were a collection of the Imperial Constitutions.—(Blackstone.)

604 Q.—What is a de facto officer?

A.—It is a person who holds an office by any color of right.—(Bouvier.)

605 Q.—What is the difference between the body of a statute and code?

A.—A code is a collection of existing statutes, scientifically arranged.—(Black.)

606 Q.—Is it used as one code or many?

A.—It is used as four codes.

607 Q.—How may specific relief be given?

A.—(1) By taking possession of a thing and delivering it to the claimant; (2) By compelling a party himself to do that which ought to be done; or (3) By declaring and determining the rights of parties, otherwise than by an award of damages.—(C. C. 3367.)

608 Q.—How may preventive relief be given?

A.—Preventive relief is given by prohibiting a party from doing that which ought not to be done: as by injunction or prohibition.—(C. C. 3368.)

609 Q.—What was a term of court?

A.—It was the time prescribed by law during which it may be in session.—(Perry.)

610 Q.—What is the difference between an action of assumpsit and an action of debt?

A.—An action of assumpsit is one brought on a contract not under seal, while an action of debt is one brought for the recovery

of a specific sum of money whether on contract, under seal or otherwise.—(Gould.)

611 Q.—Who was the chancellor originally.
A.—He was known in the courts of the Roman Empire as the chief scribe, or Secretary of the officers of the Prince.—(Bouvier.)

612 Q.—When were wills first recognized in England?
A.—They were found among the ancient Hebrews and Romans, and have existed in England immemorially.—(Gardner.)

613 Q.—Can a person dispose of his entire estate as he chooses?
A.—He can.

614 Q.—How many different kinds of estates are there?
A.—

- Quantity
  - Freeholds
    - Estates of inheritance
      - Fee simple
      - Estates tail
    - Less than inheritance
      - Conventional life estates
        1. Estate for one's own life
        2. Estate for the life of another
        3. Estate for an uncertain period which may last during life
      - Legal life estates
        1. Estate for years
        2. Estate at will
        3. Estate from year to year
        4. Estate at sufferance
  - Less than freehold
    1. Courtesy
    2. Dower
    3. Homestead
    4. Estate during coverture
    5. Estate tail after possibility of issue extinct
- Ownership
  - Severalty
  - Joint
- Quality
  - Absolute
  - Determinable
- Time
  - Possession
  - Expectancy
- Quality
  - Legal
  - Equitable

615 Q.—Are seals requisite to a will in this State?
A.—No.—(C. C. 1276.)

616 Q.—What is a judgment in rem?
A.—A judgment in rem is one which determines the status of a person or thing and which is equally binding upon all persons. A judgment in personam only operates upon parties to the record and their privies.—(9 Am. Ed. 2015.)

617 Q.—What is a plea in abatement?
A.—A plea in abatement is directed to defects apparent on the face of an original writ when not so apparent, may extend to declarations, grounds, misjoinders, nonjoinders, pleading of prior suit, variance, etc.—(Gould.)

618 Q.—What is a plea in bar?
A.—A plea in bar in an answer to the merits of the complaint, a denial of the alleged right of action. Plea in bar may, (1) Deny the whole or in part, allegations of declaration, (2) Confess and avoid, (3) Set up matter in estoppel.—(Gould.)

619 Q.—Do such pleas exist in this State?
A.—Not under same name. Same matters may be set up in answers. —(C. C. P. 437.)

620 Q.—Are there any restrictions on the power of corporations to make by-laws?
A.—No; not so long as such by-laws are not inconsistent with the purposes of the corporation and constitution and laws of the State.—(C. C. 303.)

621 Q.—What is the rule regulating liability of corporations to servants?
A.—An employer must indemnify his employee for expenditures and losses in discharge of his duties as such, or in obedience to directions; except employer is not bound to indemnify his employee for (1) losses incident to ordinary risk of the business, nor (2) in consequence of negligence of fellow servant, unless employer was careless in selecting culpable employee, nor (3) when employee continued the use of defective machinery fully understanding the dangers thereof, nor (4) in cases of contributory negligence except as herein modified.—(C. C. 1969-70.)

622 Q.—Give substance of provision of the constitution governing impairing obligations of contracts?
A.—That no bill of attainer, ex post facto law, or law impairing the obligation of a contract, shall ever be passed by any state.—(U. S. Cons.)

623 Q.—Is the principal bound in all cases where ratified?
A.—Yes; if ratification was made with full knowledge of the facts.—(C. C. 2310.)

624 Q.—If real estate is held by two in common, and they want to partition, what advice would you give? That is, where the property is not subject to division?

A.—Sell the property and divide the proceeds according to, as the several interests.—(C. C. 752.)

625 Q.—When will a writ of habeas corpus issue?

A.—When the person in whose behalf the writ is applied for, is illegally imprisoned or restrained of his liberty.—(P. C. 1474.)

626 Q.—When did writ of habeas corpus originate?

A.—Origin obscure; records of it appear in year books of fourteenth century. Some claim it to be of Roman origin.—(Bouvier.)

627 Q.—Where would you apply for a writ?

A.—Superior, Appellate or Supreme Court.—(P. C. 1475.)

628 Q.—What action would you bring on a promissory note?

A.—Action on a contract.

629 Q.—What action would you bring for goods sold and delivered?

A.—Action on a contract.

630 Q.—What are particular remedies?

A.—They are those remedies adapted to meet a particular need.—(C. C. P.)

631 Q.—Give the forms of action on a contract.

A.—Debt, assumpsit, detinue, covenant, account and scire facias.—(Perry.)

632 Q.—Can the legislature call a constitutional convention at will?

A.—Yes. But the result of their labors must be submitted to a vote of the people.—(Cal. Cons.)

633 Q.—How would you contest the validity of a last will and testament?

A.—By filing written grounds of opposition to the probating, and serving a copy on petitioner and other residents of the county who are interested in the estate, setting forth any facts substantially affecting the validity of the will.—(C. C. P. 1312.)

634 Q.—If you had a claim on an estate to whom would you present it?

A.—To the administrator or executor.—(C. C. P. 1500.)

635 Q.—What private relations govern corporations?

A.—The officers of a corporation, being its agent, occupy a fiduciary relation towards it and cannot directly or indirectly derive any personal advantage or profit, from their position, which is not enjoyed in common by all the stockholders.—(C. C. 354.)

636 Q.—Trusts are how divided?

A.—Voluntary and involuntary.—(C. C. 2215.) Express and implied. Implied divided into constructive and resulting.—(Eaton.)

637 Q.—What books have you read?

A.—(Answer according to course of your instruction.)

638 Q.—What is the source of land titles in the United States of land lying between low and high tide along the coast?

A.—The title vests absolutely in the state or government as one of its inherent rights.—(C. C. 830.)

639 Q.—What provisional remedies are provided by the code of civil procedure of California?

A.—Arrest and bail, claim and delivery of personal property, injunction, attachment, receivers, and deposit in court.—(C. C. P. 478, 574.)

640 Q.—How would you procure the arrest of a person who was about to leave the state?

A.—By setting out in the complaint the cause of action, making affidavit that you have a good and sufficient cause of action, that the party is about to leave the state for the purpose of defrauding his creditors; you are then required to put up sufficient bond; the court will thereupon issue an order for his arrest.—(C. C. P. 479.)

641 Q.—What are the allegations in a complaint on a promissory note?

A.—Title of suit and cause. (1) Time, place of execution of note, copy returned or annexed. (2) Delivery of note to plaintiff. (3) Non payment and amount unpaid. (4) Prayer for judgment.

642 Q.—Give the steps in foreclosing a mortgage.

A.—(1) File an action in foreclosure in the Superior Court. (2) File notice of action in County Recorder's office. (3) Trial and judgment. (4) Issuing of writ of execution and advertising the sale. (5) Public sale. (6) Issuing of certificate of sale under execution, and (7) Sheriff's deed.—(C. C. P. 726.)

643 Q.—How does the court take official knowledge of the seal of Great Britain?

A.—By certain facts of general notoriety assumed to be true, such as the existence, title, national flag and seal of every state or sovereign recognized by the executive power of the United States.—(C. C. P. 1875.)

644 Q.—What are the essential parts of pleadings at common law?

A.—They are the venue, title of court and term, names of parties and action, substance of complaint or defense, and the conclusion. —(Gould.)

645 Q.—What are the essential and distinguishing requisites of pleading at common law?

A.—(1) That the matter pleaded be sufficient in law to avail the party who pleads it. (2) That it be deduced and alleged according to the forms of law.—(Gould.)

646 Q.—Of what do the facts alleged consist?

A.—Matters of inducement, gist, aggravation and surplusage.—(Gould.)

647 Q.—Were fictions ever resorted to at common law?

A.—Yes; example, "Action of Trover."—(Campbell.)

648 Q.—If a verdict varies substantially from the issue, may judgment be arrested?

Yes.—(Gould.)

649 Q.—What was the Dartmouth College case?

A.—The title of the case, Trustees of Dartmouth College vs. Woodward. In the Dartmouth College case, a charter had been granted by the King of England to the trustees of Dartmouth College, a charity founded by private persons. Nearly forty years afterwards, the legislature of New Hampshire undertook to alter this charter in material respects, viz.:

It increased the number of trustees from twelve to twenty-one and gave the appointment of the additional members to the Executive of the State, and also created a Board of Overseers, to consist of twenty-five persons, of whom twenty-one were to be appointed by the Executive of the State, with the power to inspect and control the acts of the trustees. It was held that this was a material alteration of the charter, and the acts of the legislature were therefore void on the ground that the charter of a private corporation is a contract, within the meaning of the constitution of the United States, and that in the Constitution it is declared that no state shall pass any law imparing the obligation of contract.

650 Q.—What was the Charles River Bridge case?

A.—The title was Charles River Bridge vs. Warren Bridge. In March, 1785, the legislature of Massachusetts passed an act entitled "An act for incorporating certain persons for the purpose of building a bridge over Charles river, between Boston and Charlestown, and supporting the same during forty years." This corporation was empowered to build a bridge to replace a ferry, the franchise of which was granted to Harvard College in 1650, and they were also granted permission to collect certain tolls allowed by law. In 1828 the legislature of Massachusetts incorporated another company for the erection of another bridge, the "Warren Bridge" over Charles river, from Boston to Charlestown, within a few hundred feet of the Charles River Bridge; and which, after a few years, was to become free and no tolls collected. So after the Warren Bridge actually became free, travelers who had formerly passed over the other bridge and paid tolls, now took advantage of the free bridge, and as a result the value of their franchise was entirely destroyed.

The proprietors of the Charles River Bridge filed a bill in the Supreme Judicial Court of Massachusetts against the proprietors of the Warren Bridge, first for an injunction, and afterwards for general relief, on the ground that the Act of the Legislature in authorizing the building of the Warren Bridge,

was an act impairing the obligation of a contract. After much litigation, the Supreme Court of the United States held, that this act of incorporation of the proprietors of the Charles River Bridge is in the usual form; and the privileges such as are commonly given to corporations of that kind. It confers on them the ordinary faculties of a corporation for the purpose of building the bridge; and establishes certain rates of toll, which the company are authorized to take. This is the whole grant. There is no exclusive privilege given to them over the waters of the Charles river, above or below the bridge, no right to erect another bridge themselves, nor to prevent other persons from erecting one; no engagement from the state, that another shall not be erected; and no undertaking not to sanction competition, nor to make improvements that may diminish the amount of its income.

Upon all these subjects the charter is silent and nothing is said in it about a line of travel so much insisted on in the argument, in which they are to have exclusive privilege; and no words are used, from which an intention to grant any of these rights can be inferred, therefore there is no impairing of the obligations of their contract.

651 Q.—What is a guaranty?

A.—A guaranty is a promise to answer for the debt, default or miscarriage of another person.—(C. C. 2787.)

652 Q.—What is warranty?

A.—A warranty is an engagement by which a seller assures to a buyer the existance of some fact affecting the transaction, whether past, present or future.—(C. C. 1763.)

653 Q.—What is surety?

A.—A surety is one who at the request of another and for the purpose of securing to him a benefit, becomes responsible for the performance by the latter, of some act in favor of a third person, or hypothecates property as security therefor.—(C. C. 2831.)

654 Q.—What is a factor?

A.—A factor is an agent who, in the pursuit of an independent calling, is employed by another to sell property for him, and is vested by the latter with the possession or control of the property, or authorized to receive payment therefor from the purchaser.—(C. C. 2026.)

655 Q.—What is the difference between a factor and a broker?

A.—A factor may buy and sell in his own name, and he has the goods in his possession; while a broker, as such, cannot ordinarily buy or sell in his own name, and has no possession of the goods sold.—(Black.)

656 Q.—How are injuries divided under the code?
A.—Injuries are of two kinds, viz.: To the person and to property.—(C. C. P. 27.)

657 Q.—What is a dominant tenement?
A.—It is land to which an easement is attached.—(C. C. 803.)

658 Q.—What are the different modes of taking testimony?
A.—By affidavit, by deposition and by oral examination.—(C. C. P. (2002.)

659 Q.—What is a deposition?
A.—It is a written declaration under oath, in the form of questions and answers, made upon notice to the adverse party for the purpose of enabling him to attend and cross-examine.—(C. C. P. 2004-6.)

660 Q.—What is estoppel?
A.—It is a plea which neither admits nor denies the facts alleged by the plaintiff, but denies his right to allege them.—(Gould.)

661 Q.—How may writings be proved?
A.—(1) By anyone who saw the writing executed. (2) By evidence of the genuineness of the handwriting of the maker; or (3) By a subscribing witness.—(C. C. P. 1940.)

662 Q.—How is the code of civil procedure divided?
A.—It is divided into four parts, viz.: Courts of justice, civil actions, special proceedings of a civil nature and evidence.—(C. C. P. 1.)

663 Q.—What is libel?
A.—Libel is a false and unprivileged publication by writing, printing, picture, effigy, or other fixed representation to the eye, which exposes any person to hatred, contempt, ridicule or obloquy, or which causes him to be shunned or avoided, or which has a tendency to injure him in his occupation.—(C. C. 45.)

664 Q.—What obligations cannot be specifically enforced?
A.—(1) An obligation to render personal service; (2) An obligation to employ another in personal service; (3) An agreement to submit a controversy to arbitration; (4) An agreement to perform an act which the party has not power lawfully to perform when required to do so; (5) An agreement to procure the act or consent of the wife of the contracting party, or of any other third person; or (6) An agreement, the terms of which are not sufficiently certain to make the precise act which is to be done clearly ascertainable.—(C. C. 3390.)

665 Q.—What communications are privileged?
A.—A privileged publication is one made (1) In the proper discharge of an official duty; (2) In any legislative or judicial proceeding, or in other official proceedings authorized by law; (3) In a communication, without malice, to a person interested therein, by

one who is also interested, or by one who stands in such relation to the person interested as to afford a reasonable ground for supposing the motive for the communication innocent, or who is requested by the person interested to give the information; (4) By a fair and true report, without malice, in a public journal, of a judicial, legislative or other public official proceeding, or of anything said in the course thereof, or of a verified charge or complaint made by any person to a public official, upon which complaint a warrant shall have been issued; (5) By a fair and a true report, without malice, of the proceedings of a public meeting, if such meeting was lawfully convened for a lawful purpose and open to the public, or the publication of the matter complained of was for the public benefit.—(C. C. P. 47.)

666 Q.—What causes of action may be joined?

A.—The plaintiff may unite several causes of action in the same complaint where they all arise out of: (1) Contracts, express or implied; (2) Claims to recover specific real property, with or without damages for the withholding thereof, or for waste committed thereon, and the rents and profits of the same; (3) Claims to recover specific personal property, with or without damages for the withholding thereof; (4) Claims against a trustee by virtue of a contract or by operation of law; (5) Injuries to character; (6) Injuries to person; (7) Injuries to property. The cause of actions united must all belong to one only of these classes and must affect all the parties to the action, and not require different places of trial, and must be separately stated, but an action for malicious arrest and prosecution, or either of them, may be united with the action for either an injury to character or to the person.—(C. C. P. 427.)

MAXIMS IN EQUITY.

1. Equity will not suffer a right to be without a remedy.
2. Equity follows the law.
3. Equity aids the diligent and not the negligent.
4. Between equal equities the law will prevail.
5. Equality is equity.
6. He who comes into equity must do so with clean hands.
7. He who seeks equity must do equity.
8. Equity looks upon that as done which ought to be done.
9. Between equal equities priority of time will prevail.
10. Equity imputes an intention to fulfill an obligation.
11. Equity acts in personam.
12. Equity acts specifically and not by way of compensation.

MAXIMS OF JURISPRUDENCE.

When the reason of a rule ceases, so should the rule itself.

Where the reason is the same, the rule should be the same.

One must not change his purpose to the injury of another.

Any one may waive the advantage of a law intended solely for his benefit. But a law established for a public reason cannot be contravened by a private agreement.

One must so use his own rights as not to infringe upon the rights of another.

He who consents to an act is not wronged by it.

Acquiescence in error takes away the right of objecting to it.

No one can take advantage of his own wrong.

He who has fraudulently dispossessed himself of a thing may be treated as if he still had possession.

He who can and does not forbid that which is done on his behalf is deemed to have bidden it.

No one should suffer by the act of another.

He who takes the benefit must bear the burden.

One who grants a thing is presumed to grant also whatever is essential to its use.

For every wrong there is a remedy.

Between those who are equally in the right, or equally in the wrong, the law does not interpose.

Between rights otherwise equal, the earliest is the preferred.

No man is responsible for that which no man can control.

The law helps the vigilant, before those who sleep on their rights.

The law respects form less than substance.

That which ought to have been done is to be regarded as done, in favor of him to whom, and against him from whom, performance is due.

That which does not appear to exist is to be regarded as if it did not exist.

The law never requires impossibilities.

The law neither does not requires idle acts.

The law disregards trifles.

Particular expressions qualify those which are general.

Contemporaneous exposition is in general the best.

The greater contains the less.

Superfluity does not vitiate.

That is certain which can be made certain.

Time does not confirm a void act.

The incident follows the principal, and not the principal the incident.

An interpretation which gives effect is preferred to one which makes void.

Interpretation must be reasonable.

Where one or two innocent persons must suffer by the act of a third, he by whose negligence it happened must be the sufferer.

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